

# **Governance and Audit Committee Meeting**

**Grand Jury Room, Town Hall, High Street,  
Colchester, CO1 1PJ**

**Tuesday, 23 November 2021 at 18:00**

**The Governance and Audit Committee** considers and approves the Council's Statement of Accounts and reviews the Council's annual audit letter. The Committee also deals with the Council's governance, risk management and audit arrangements. To make recommendations to the Council on functions such as Elections and bye laws, and determine Community Governance Reviews.

# Information for Members of the Public

## Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published. Dates of the meetings are available here:

<https://colchester.cmis.uk.com/colchester/MeetingCalendar.aspx>.

Most meetings take place in public. This only changes when certain issues, for instance, commercially sensitive information or details concerning an individual are considered. At this point you will be told whether there are any issues to be discussed in private, if so, you will be asked to leave the meeting.

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## Access

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## **Governance and Audit Committee - Terms of Reference (but not limited to)**

### **Accounts and Audit**

To consider and approve the Council's Statement of Accounts and the Council's financial accounts, and review the Council's external auditor's annual audit letter.

### **Governance**

To consider the findings of the annual review of governance including the effectiveness of the system of internal audit and approve the signing of the Annual Governance Statement.

To have an overview of the Council's control arrangements including risk management and in particular with regard to the annual audit plan and work programme, and to approve the policies contained in the Council's Ethical Governance Framework.

### **Other regulatory matters**

To make recommendations to Council on functions such as elections, the name and status of areas and individuals, and byelaws.

To determine and approve Community Governance Reviews.

### **Standards in relation to Member Conduct**

To consider reports from the Monitoring Officer on the effectiveness of the Members' Code of Conduct, and to advise the Council on the adoption or revision of the Code.

To receive referrals from the Monitoring Officer into allegations of misconduct and to create a Hearings Sub-Committee to hear and determine complaints about Members and Co-opted Members referred to it by the Monitoring Officer.

To conduct hearings on behalf of the Parish and Town Councils and to make recommendation to Parish and Town Councils on improving standards or actions following a finding of a failure by a Parish or Town Councillor.

To inform Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints.

To grant dispensations, and to hear and determine appeals against refusal to grant dispensations by the Monitoring Officer.

To make recommendations to Council regarding the appointment of Independent Persons.

### **General**

To review of the Constitution including governance issues around formal meetings, processes and member training and to make recommendations to Council.

**COLCHESTER BOROUGH COUNCIL**  
**Governance and Audit Committee**  
**Tuesday, 23 November 2021 at 18:00**

**The Governance and Audit Committee Members are:**

Councillor Dennis Willetts	Chairman
Councillor Leigh Tate	Deputy Chairman
Councillor Kevin Bentley	
Councillor Michelle Burrows	
Councillor Adam Fox	
Councillor Chris Hayter	
Councillor David King	
Councillor Steph Nissen	
Councillor Gerard Oxford	

**The Governance and Audit Committee Substitute Members are:**

All members of the Council who are not Cabinet members or members of this Panel.

**AGENDA**  
**THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING**  
**(Part A - open to the public)**

**Please note that Agenda items 1 to 6 are normally dealt with briefly.**

**1      Welcome and Announcements**

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

**2      Substitutions**

Councillors will be asked to say if they are attending on behalf of a Committee member who is absent.

**3      Urgent Items**

The Chairman will announce if there is any item not on the published agenda which will be considered because it is urgent and will explain the reason for the urgency.

4	<b>Declarations of Interest</b>	Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other pecuniary interest or non-pecuniary interest.	
5	<b>Minutes of Previous Meeting</b>	The Councillors will be invited to confirm that the minutes of the meeting held on 19 October 2021 are a correct record.	
	<b>Draft minutes - 19-10-2021</b>		9 - 18
6	<b>Have Your Say!</b>	The Chairman will invite members of the public to indicate if they wish to speak or present a petition on any item included on the agenda or any other matter relating to the terms of reference of the meeting. Please indicate your wish to speak at this point if your name has not been noted by Council staff.	
7	<b>Treasury Management Strategy - Mid Year Review Report 2021/22</b>	The Committee will consider a report providing a mid year review of the Council's treasury management.	19 - 30
8	<b>Financial Monitoring Report – April to September 2021</b>	The Committee will consider a report providing the opportunity to hold Service Managers and Portfolio Holders accountable for their budgets.	31 - 48
9	<b>Capital Monitoring Report Quarter 2 2021/22</b>	The Committee will consider a report setting out the Council's Capital Programme against budget for quarter 2 financial year 2021/22. The Capital Programme includes projects delivering General Fund services, the HRA Housing Investment Programme and the Revolving Investment Fund (RIF). It is a significant programme with a high level of investment benefitting the Borough, contributing towards the local economy, and working towards recovery.	49 - 62
10	<b>Review of the Council's Ethical Governance Policies</b>	The Committee will consider a report to review the Council's updated Ethical Governance policies. These are the key policies which set out the standards of conduct and integrity that the Council expects of councillors, staff, partners, suppliers and customers when conducting Council business. They contain procedures for dealing with breaches of the policies and processes to be followed	63 - 162

11	<b>Annual review of the Members' Code of Conduct and the Council's Localism Act Arrangements</b>	163 - 212
	The Committee will consider a report reviewing the Councillors' (Members') Code of Conduct, the Council's Localism Act Arrangements for dealing with complaints made regarding councillors and to make recommendations to Full Council regarding any amendments. The report also provides an update on the number and types of complaints received under the Members' Code of Conduct.	
12	<b>Review of Local Code of Corporate Governance</b>	213 - 244
	The Committee will consider a report reviewing the Local Code of Corporate Governance. The Local Code of Corporate Governance is how the Council demonstrates that its structures comply with the recognised principles of good governance.	
13	<b>Review of Member/Officer protocol</b>	245 - 254
	The Committee will consider a report reviewing the Member / Officer Protocol which provides a framework for good working relationships between Councillors and Officers.	
14	<b>Gifts and Hospitality – Review of Guidance for Councillors and Policy for Employees</b>	255 - 266
	The Committee will consider a report inviting it to approve updated guidance for councillors and policy for employees. The Council provides guidance for councillors regarding any gifts and hospitality received in their role as a councillor. The Council has also adopted a policy for its employees in relation to any gifts and hospitality received.	
15	<b>Work Programme 2021-2022</b>	267 - 270
	The Committee will consider a report which sets out the current Work Programme 2021-2022 for the Governance and Audit Committee.	

#### **Exclusion of the Public (not Scrutiny or Executive)**

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

## **Part B**

**(not open to the public including the press)**



## GOVERNANCE AND AUDIT COMMITTEE

19 October 2021

*Present:-* Councillor Kevin Bentley, Councillor Michelle Burrows, Councillor Adam Fox, Councillor Chris Hayter, Councillor David King, Councillor Leigh Tate, Councillor Dennis Willetts (Chairman)

*Substitutions:* Councillor Maclean substituting for Councillor Bentley

*Also Present:-* Councillor Hagon (attended remotely)

### **278. Minutes of the previous meeting**

Councillor King pointed out two typographical errors in the draft minutes, which would be corrected.

Councillor Fox requested that a copy of the letter sent to the Secretary of State on behalf of the Committee be circulated to all members of the Committee and it was confirmed that this would be done.

*RESOLVED* that: the minutes of the meeting held on 7 September 2021 be confirmed as a correct record subject to two typographical errors having been corrected.

### **279. Local Government and Social Care Ombudsman – Annual Review Letter 2021**

Andrew Weavers, Strategic Governance Manager, attended the meeting to present the report and assist the Committee with its enquires. The Committee heard that the Local Government and Social Care Ombudsman's annual review letter contained less details than was usual which was because the Ombudsman's office had stopped taking complaints due to the pandemic. No findings of mal-administration or public interest reports had been issued against Colchester Borough Council (the Council).

Noting the comment made by the Ombudsman that he was concerned by the erosion of effective complaint functions in local authorities, Councillor King queried how robust the complaint processes of the Council were, and how easy they were to access for members of the public. In response, Andrew Weavers confirmed to the Committee that the Council had an effective complaint system which the Ombudsman had commented on in the past, and the complaint system was available via the Council's website to make it as accessible as possible. The

Committee were reassured that the Ombudsman's comments were contained within a letter with standard wording, and were not directed at the Council itself. Referring to data within the report, Councillor Willetts expressed his opinion that it was clear that when members of the public felt the need to make a complaint, that they had been able to do so, citing the example of the twenty three complaints that had been received in 2016/2016, and similar numbers in the intervening years, and the importance of maintaining an accessible complaints system was emphasised.

*RESOLVED* that: the contents of the Local Government & Social Care Ombudsman's Annual Review Letter for 2021 be noted.

## **280. Health and Safety Report 2020/2021**

Carl Free, Corporate Health and Safety Officer, attended the meeting to present the report and assist the Committee with its enquires. The Committee heard that the report covered the period October 2020 to September 2021, and as a result of this the main health and safety focus had been on the response to the Covid-19 pandemic, and the work that had been undertaken to ensure the safety of staff and members of the public. Some of the more usual health and safety audits and reviews were now being carried out and were in progress, with no significant concerns to the health and safety of staff had been identified.

The Committee heard that the health and safety committee meetings had continued to be held online, allowing designated officers to share training, guidance and best practice for Covid safety measures and staff health, together with monitoring corporate health and safety action priorities for the future.

The regular Fire Risk Assessments for all corporate buildings had been completed by an experienced Fire Safety Consultant. These reviews were carried out on an annual basis as the Council's buildings contained staff or customers. No significant issues had been identified, and standard continual improvement work was ongoing.

Although face to face training sessions had been curtailed due to the pandemic, however, essential courses had continued via online training, and additional training had been organised to take place over the coming months. This included a recognised qualification for the Executive Management Team of the Council to help them become better influencers of health and safety.

There had been no serious health and safety incidents over the past reporting year which were reportable to the Health and Safety Executive (HSE) under the Reporting of Injuries Diseases and Dangerous Occurrences Regulations (RIDDOR). Incidents which needed to be reported were serious such as fractures or incidents leading to more than seven days off work, or members of the public being taken to hospital for treatment. The number of reportable incidents had been declining over the past few years, but it was important that vigilance was maintained and incidents reported whenever necessary.

One of the focusses for the upcoming year was water safety, to ensure that the Council was legally compliant, and residents were kept safe around water sources in the borough.

Hayley McGrath, Corporate Governance Manager, explained to the Committee that the health and safety processes were a fundamental part of the Council's approach to physical risk management, and that as such the Committee were invited to review these on an annual basis to provide assurance as part of the Council's overall risk management process.

Councillor Willetts noted that there had been no serious incidents which may have indicated that the policies were deficient in some way, and that he assumed that the Committee could be assured that the policies were subject to the usual range of amendment and improvement as necessary. Further detail was requested with regard to the reported incident of an injury while lifting a bin, in order to give the Committee assurance that incidents were being dealt with under existing policies and no significant changes in procedure had been prompted.

Carl Free confirmed that as the reported wrist fracture while using a bin lift had been a more serious incident, he had investigated this, and as part of this investigation the policies and procedures in place had been reviewed. The member of staff had been trained and the lift was working as it should have been, and the accident had been caused through a number of environmental factors and individual error. All staff had subsequently been reminded of correct procedure, and no further incidents had been reported.

Councillor Fox enquired what processes had been put in place to safeguard staff who had been working from home over the past year, and it was confirmed that as the majority of staff working from home were using computers the guidance on screen usage had been updated, and additional guidance had been provided in respect of slips, trips and falls as well as fire safety. Care had been taken to provide staff with the correct equipment that they needed to work as safely as possible, including laptops, risers and chairs from the office, and the system seemed to be working well with no major incidents being reported.

In response to an enquiry from Councillor King concerning the current works at Rowan House, the Committee heard that although the building did need an uplift, this did not create specific health and safety hazards. Some minor amendments had been recommended as part of the fire safety report, but one of the key changes which was being made was the introduction of improved ventilation as part of the overall response to Covid-19, and the greater awareness that there now was to the importance of good ventilation in managing Covid-19 and other respiratory diseases. Improvements to areas where poor ventilation had been identified would be carried out as part of the overall improvement works which were taking place. In response to an enquiry from Councillor Willetts, the Committee were assured that all necessary improvement works were being carried out in Rowan House to fulfil the Council's duty to safeguard its staff.

With regard to the UK Drowning Prevention Strategy, the Committee heard that data in respect of fatalities was shared via the Essex Resilience Forum, but less information was available with regard to other incidents. The Council had identified areas of open water under its control and had developed action plans and risk assessments which were focussed on preventing people entering the water. It was hoped that the current review would reveal whether or not the Council was doing enough to promote water safety, and potential suitable measures that could be taken to improve this. It was confirmed to the Committee that the Council's safeguarding obligation related to areas where the Council owned the land on which a body of water was situated, or the water source itself, however, often the responsibility was shared with others, and the report would identify who those additional stakeholders were to enable joint working to be carried out to. Areas would be identified where there was a specific risk, and action taken to ensure that such risks were suitably mitigated against.

Councillor Burrows enquired whether there was a particular operational area of the Council where near miss reporting raised any concerns, and the Committee heard that the leisure and waste services reported the highest numbers of near miss incidents. The reporting of near misses was considered to be of key importance in preventing future accidents and was encouraged as much as possible, and was a feature of the new staff induction process. No issue was considered to be too small to report, and risk and hazard reporting contributed to overall safety management. The Committee were assured that no concerns had been raised over the working practices of a particular service area of the Council as a result of the reporting of near misses.

*RESOLVED:* that the Health and Safety Report for 2020/2021 be noted, and the Health and Safety Policy for 2021/2022 be approved.

## **281. Colchester Borough Homes Annual Governance Statement 2020/2021**

Matt Armstrong, Director of Business Improvement for Colchester Borough Homes (CBH), and Karen Smout, an independent board member of CBH and Vice Chair of the Finance and Audit Committee, attended the meeting to present the report and assist the Committee with its enquiries. It was intended to provide the Committee with assurance that Colchester Borough Home's (CBH) governance arrangements were strong.

The Committee heard that CBH was managed by a board consisting of four independent members, three Colchester Borough Council Councillors and three resident members. The governance structure of CBH had been amended over the past twelve months, and the Operations and Performance Committee had been added to provide a greater amount of scrutiny in those areas, and the Residents Voice Panel had been re-launched which had improved engagement. The Code of Governance of CBH had been updated in December 2020, with the National Housing Federation's code of governance being adopted. In line with Colchester

Borough Council's approach, the company TIAA had been appointed to carry out internal audits for CBH, and this had been working well, with attendance at all Finance and Audit Committee meetings facilitating good dialogue. A new, simpler, risk management policy had been adopted in February 2020 and this had been supported by training for staff to give more structure to risk discussions at all levels of the company. The Committee were advised that the accounts for 31 March 2021 had been signed off, and the management letter had been received from CBH's external auditors, Scruton Bland, which raised no governance or control issues. The only issue which had been flagged was the potential viability of CBH based solely on the company's pension liability. The Committee heard that there was a good internal dialogue at CBH's Finance and Audit Committee between both internal and external auditors and CBH Officers about governance matters and risk.

Councillor Willetts note that there had been a broadening of the activities undertaken by CBH over the past five years, moving away from domestic to commercial property management, and he enquired whether this had needed a change in the risk management approach taken by CBH? The Committee heard that there had been a change in approach, and risk was addressed at every board meeting. The Strategic Risk Register was kept up to date with changes in legislative requirements and advancing technology management systems with the aim of continuing to deliver excellent service to residents.

In response to an enquiry from Councillor King, the Committee were advised that the highest risks recorded on the Register were considered in great detail by the Board who sought advice from expert officers in relation to the identified risk and challenged the mitigating actions that were in place as part of a robust conversation. The Committee also heard that the Residents Voice Panel had a slot on all of the Board meetings of CBH, where the concerns of the residents could be highlighted for further investigation by officers, and that this feedback was considered in tandem with other complaints and comments received from residents to ensure that the Board had a flavour of current issues.

In response to a query from Councillor Willetts, Matt Armstrong confirmed that the reduction in the number of audits that had been carried out was a decision that had been taken when CBH had moved to a more risk based approach to auditing. TIAA, the internal auditors, attended the Finance and Audit Committee on an annual basis and advised on both the planned annual audits and the three year audit plan, together with offering advice on emerging risks in the sector.

Councillor Tate noted that some of the actions that had been listed on the action plan presented to the Committee were due to be completed in November 2021, and Matt Armstrong confirmed that approximately half the actions that were contained in the plan had been completed. It was anticipated that the agreement of the Strategic Plan 2022-2027 would be delayed until December to allow the new Chief Executive of CBH time to consider it in detail, however, this was not required to be in place before April 2022, which allowed sufficient time.

Councillor King commented on the improvement which had been demonstrated in the number of substantial assurance assessments compared to the previous year,

and sought clarity on whether this position could be maintained or even improved upon. Matt Armstrong offered the opinion that the organisation was moving in the right direction, but commented that the environment was changing constantly and it was part of the process of the Finance and Audit Committee to assess and review risk mitigations. With regard to the 'reasonable' assurances that had been given as a result of audits, the Committee were advised that the majority of these assurances were in relation to systems and record keeping, or areas where the risks were within the identified risk appetite of the Board. A new housing management system had been installed which would serve to codify the records system and improve processes.

Councillor Willetts reminded the Committee that the governance of CBH had been previously considered by the Committee when officers had advised on the compatibility of the approaches taken by both the Council and CBH, and he expressed his opinion that excellent practice had been demonstrated by both organisations. The Head of Internal Audit's opinion was noted that CBH had reasonable and effective risk management, control and governance processes in place.

*RESOLVED that:*

- the Committee had considered and commented on the Governance Assurance Statement of Colchester Borough Homes.
- The Committee accepted the assurance provided by Colchester Borough Homes regarding its governance arrangements throughout 2020/2021

## **282. Verbal update on remote meetings following the Covid-19 pandemic**

Andrew Weavers, Strategic Governance Manager, attended the meeting to provide the update and assist the Committee with its enquiries. The Committee were reminded that on 25 March 2021 the government had called for evidence on local authority remote meetings, which the Council had responded to stating that it was in favour of having the ability to hold hybrid meetings if desired. To date, no response had been received from the government indicating how the implementation of the capacity for holding hybrid meetings would be advanced. It was therefore necessary to ensure that the physical meetings which were held were safe for Members, and dynamic risk assessment were continuing for meetings under the Health and Safety at Work Act. There were some Members who remained concerned about the prospect of returning to physical meetings, particularly for meetings of full council in the council chamber where no social distancing was possible. As a result of these concerns, the meeting of full council scheduled for 20 October 2021 was to be held in the Moot Hall with some social distancing mitigation in place. The position would be considered again before every meeting, however it was emphasised that the overriding concern must be to the health and wellbeing of Members and Council Officers attending formal meetings.

Research was continuing into ways to broadcast meetings from the Town Hall which was a Grade 1 listed building, containing three separate and very different meeting rooms which each potentially needed their own bespoke solution. Because of this, it had been decided to focus attention on finding a live streaming solution in the Grand Jury and West Committee Rooms, and Democratic Services and IT Officers were currently working on this.

Councillor Willetts noted that the vaccination status of any Councillor was an entirely private matter for them, but he wondered whether there was any sense of the numbers that had received full vaccinations, and whether this could have any impact on meeting planning. It was confirmed to the Committee that there was no information available about vaccination status, and that as even the vaccinated were able to be infected by Covid-19 and pass it on, this would not be a driving factor behind any risk assessment. The Committee were reminded that even if there was the capacity to attend meeting remotely and take part in debate, any Councillor doing so would not be able to vote on any item, which was of particular significance to the authority given its very fine political balance. It was confirmed that there was sufficient budget available to implement a suitable solution enabling the live streaming of meetings when one was found.

### **283. Assurance on Colchester Borough Council's Cyber Security Provision**

Wayne Murray, Technology Delivery Manager, attended the meeting to present the report and assist the Committee with its enquiries. The Committee was advised that the report to be presented to it was informed by the need to maintain the security of the Council's information technology (IT) systems, and specific technical detail relating to the systems was therefore omitted. The Committee received an update on figures provided in the report, and heard that 100% of staff had now completed Cyber Security training. The Members briefing and training session had also recently taken place, with good attendance and interesting debate.

Councillor Hagon attended the meeting and offered his hopes for a hybrid meeting solution to be found, noting that there may be a variety of reasons that Councillors were unable to attend meetings in person, and suggesting that government needed to address this. Officers who delivered the Councillor cyber security were praised for the quality of the training, together with the Council's IT response to the pandemic which had provided protection to staff, Councillors and residents. It was vital that a secure digital infrastructure was implemented and maintained. Councillor Hagon wondered whether it might be possible to improve the ease of access for Members to shared calendar and email functions, and suggested that some consideration be given to hosting Councillor emails in a separate area to allow for more accessibility while maintaining necessary security functions.

Whilst noting the progress that was being made towards more comprehensive digital access, a question was asked as to how compatible this would be with the return to physical meetings. Was the required infrastructure in place to allow Councillors the space needed to use laptop or other devices to access meeting papers in the

Council Chamber? Not all Councillors were comfortable using technology, and it was suggested that there be more flexibility to providing printed documentation where necessary to support the different needs of Members.

Councillor Willetts noted that there were significant cost saving and environmental advantages associated with the move to reliance on accessing meeting papers electronically, but he also suggested that all Members should be able to have access to paperwork in a format that they were comfortable with; did we have the balance right?

Wayne Murray confirmed to the Committee that there was limited space available in the Council Chamber for technology, and this was one of the factors behind the decision to focus the current development in the Grand Jury Room which was more open. Consideration was being given to hosting Councillor email accounts in a way that made them more easily accessible, but discussions were at a very early stage and it was not yet possible to say whether this would be achievable, or what any associated costs may be.

The Committee noted that although there had been 100% completion by staff of the mandatory data protection training, only two thirds of Councillors had completed this, which was a cause for concern, and it was considered appropriate for the Committee to take action to encourage a great completion rate among Members. Councillor Fox suggested that it may be appropriate for the Group Leaders or the Member Development Committee to look into this issue further. He did not consider it was desirable to implement a two tier system, where Members had fewer responsibilities towards maintaining the security of the Council's systems than Officers, and suggested that the responsibility be shared equally. Although it may be a minor inconvenience to access data or emails by following additional security checks or requirements, this was a minor price to pay to safeguard systems and information, and Councillors should take their responsibilities seriously and follow the expert advice of Officers in this regard.

Councillor King leant his support to the comments made by Councillor Fox, and suggested that encouraging the completion of the training was something that the Member Development Group might appropriately consider. He enquired how secure it was felt that the Council's systems were, in line with other local authorities. Wayne Murray explained to the Committee that the Council had the benefit of a free service offered by the National Cyber Security Centre who helped monitor the Council's networks and provide alerts of any issues immediately. It was not possible to stop cyber attacks being made, however, the processes that the Council had in place were designed to combat these and quickly limit any damage that might have occurred, and it was felt that the Council was in a good position to respond to any issues.

Councillor Maclean appreciated the points that had been around cyber security, but asked how using a computer issued by Colchester Borough Council could be made simpler, as she had great difficulty logging into the system. She further commented that Members should be able to choose how they accessed agenda documents, and whether they wished to have printed copies to reference, as she felt that staring at a

computer screen for extended periods of time had potential negative health connotations.

Councillor Willetts commented that the position with regard to cyber security and access to information was an extremely complex one, and praised the work that was being undertaken to ensure that Councillors had an easy and effective way to access and process the information necessary to serve their constituents.

*RESOLVED that:*

- the contents of the report be noted.
- the Member Development Group be requested to consider the issue of Councillor completion of mandatory training, and to work with Group Leaders to attempt to secure higher levels of completion.

#### **284. Work Programme**

Matthew Evans, Democratic Services Officer, attended the Committee to present the report and assist the Committee with its enquiries. The Committee were asked to note that the Equality and Safeguarding annual update had been moved from this meeting to the meeting of this Committee in March 2022.

*RESOLVED that: the content of the Work Programme be agreed.*



23 November 2021

Report of	Assistant of Director of Corporate and Improvement	Author	Paul Cook 505861 Mark Jarvis 282794
Title	<b>Treasury Management Strategy - Mid Year Review Report 2021/22</b>		
Wards affected	Not applicable		

## 1 Executive Summary

- 1.1 The 2021/22 Treasury Management Strategy Statement (TMSS) was approved by Council on 24 February 2021. This report is a mid-year review of the Council's treasury management.
- 1.2 Complying with CIPFA's Code of Practice on Treasury Management the update includes:
  - an economic update
  - whether key elements of the TMSS and annual investment strategy require changes
  - performance against prudential indicators
  - a review of borrowing strategy
  - highlights areas to be taken into consideration in preparing the 2021/22 TMSS

## 2 Recommended Decision

- 2.1 To approve the Treasury Mid-Year report.

## 3 Reason for Recommended Decision

- 3.1 Treasury Management governance arrangements require Governance and Audit to approve a mid-year Treasury Management report.

## 4 Alternative Options

- 4.1 Alternative options regarding treasury management activities are considered on an ongoing basis, in consultation with the Council's Treasury Advisors, Link Asset Services.

## 5 Introduction

- 5.1 The Council operates a balanced budget in line with statutory requirements. This broadly means that in year income meets the Council's spending requirements.
- 5.2 Treasury Management operations ensure:
  - that cashflow is adequately planned, with surplus monies being invested in line with the Council's Treasury Management Policies and Practices and the Council's risk appetite for investments and borrowing

- that the Council's capital plans are fully funded, treasury management practices supporting the requirement for long term cashflow planning and supporting the Council's need to borrow.
- Local Authorities are required under statute to self-regulate on the affordability, prudence and sustainability of its capital investment plans and borrowing through a process of setting estimates, indicators and the Council's overall risk appetite; and reporting on these on a regular basis.

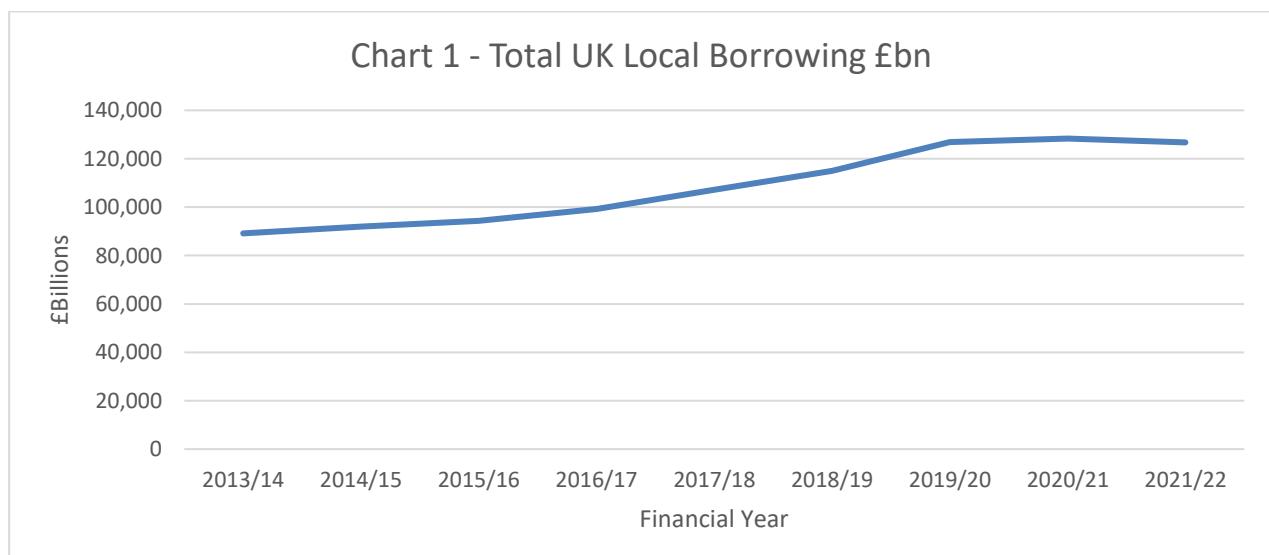
5.3 Treasury Management is defined as 'the management of the Council's borrowing, investments and cash flows, its banking, money market and capital market transactions; the effective control of risks associated with these activities; and the pursuit of optimum performance consistent with those risks.'

5.4 The management of the Council's treasury management processes is supported by Treasury Management Practices and the Council employs Link Asset Services to provide specialist consultancy in respect of treasury management, especially with regards to investments and debt, as well as capital accounting arrangements and asset finance.

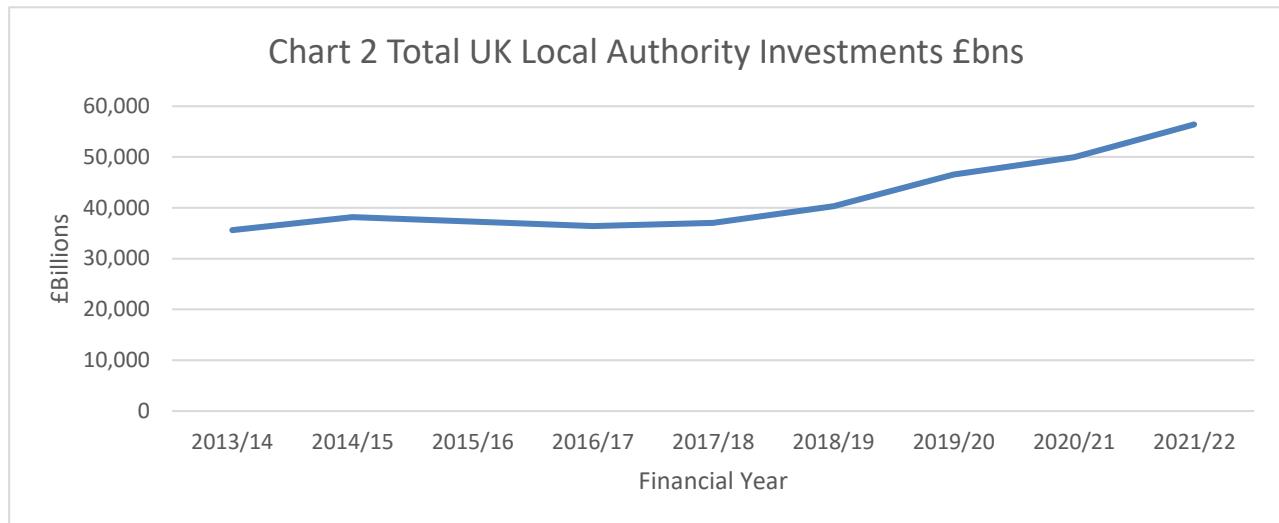
5.6 In line with statutory requirements the Council has adopted the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management (revised 2017). This mid-year position report complies with the Code.

## 6 Economic Update

6.1 Total local authority borrowing has gradually increased over the last few financial years. This reflects the funding of local authority capital programmes. Given the impact of global pandemic, the amount of borrowing has remained stable during 2020/21 and even reduced given the large amount of funding provided to Local government that improves the cash position as well as a slowdown nationally in regard to Council's respective capital programme



6.2 Over the same period there has been an increase in the Council's short term investment due to the additional funding and economic slowdown.



6.3 There has been a considerable rise in the use of money market funds and other managed funds reflecting the low rates on offer from banks directly to local authorities. The table shows Colchester's comparative position as at September 2021.

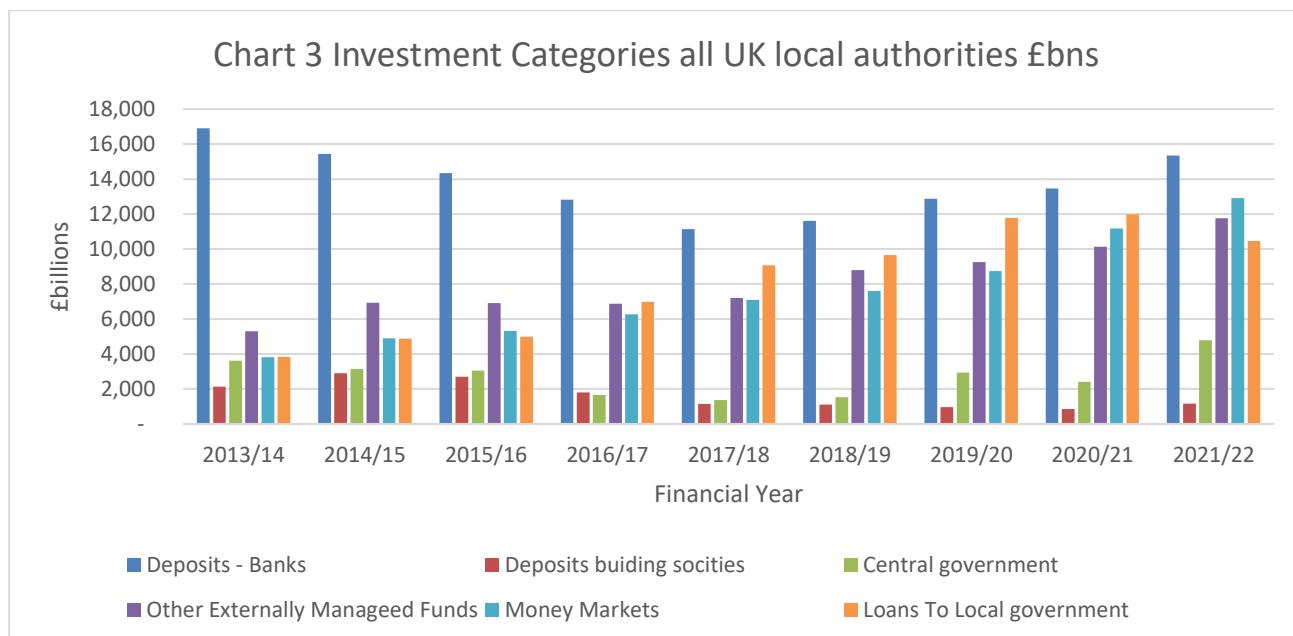


Table 1 – Investment distribution 30 September 2021		UK local authorities	Colchester
1	Bank	27%	52%
2	Building society	2%	3%
3	Money market funds	23%	37%
4	Externally managed funds	21%	Nil
5	Local government	19%	8%
6	Other including DMO	8%	Nil
7	Total	100%	100%

6.4 The economic forecast remains difficult given the impact of the global pandemic. A recent update provided by the Council's Treasury advisors concludes the following over the next few years based on a level risk analysis:

- The Monetary Policy Committee (MPC) voted unanimously to leave Bank Rate unchanged at 0.10% and made no changes to its programme of quantitative easing purchases due to finish by the end of this year at a total of £895bn
- Financial markets are now pricing in a first increase in Bank Rate from 0.10% to 0.25% in February 2022
- The path of CPI inflation is now expected to rise slightly above 4% by the end of 2021. Underlying price pressures in the economy are likely to get embedded over the next year and elevate future inflation to stay significantly above its 2% target and for longer.

6.5 Full details of the Council's Treasury Advisors economic analysis are included at Appendix A to this report.

## 7 Treasury Management Strategy 2020/21

7.1 The TMSS includes the following key elements:

- The Council continues to maintain an under-borrowed position. It will borrow internally, reducing the cost of carry as current investment rates are substantially below long term borrowing rates. This also reduces the Council's exposure to credit risk by reducing the level of investment balances.
- The Council's investment policy reflects a low appetite for risk; emphasising the priorities of security and liquidity over yield.
- The budgeted return on investments placed for periods up to 100 days is 0.5%.
- That the Council complies with the CIPFA Prudential and Treasury Management Codes (Revised 2017); in relation to setting of capital plans, setting and reporting on prudential indicators, evaluation of the General Fund MRP and other related governance guidance.

7.2 No immediate mid-year changes are proposed to the TMSS.

## 8 The Council's Capital Position and Prudential Indicators

8.1 This part of the report updates:

- The Council's capital expenditure plans and their financing
- The impact of changes to the Council's capital plans on prudential Indicators and the underlying need to borrow
- Compliance with the limits on borrowing activity.

### Capital Expenditure

8.2 The table below identifies the revised 2021/22 capital programme forecast since the original capital budget was approved by Council in February 2021.

Table 3 Capital Expenditure 2021/22 £k	Original Estimate	Revised Estimate
General Fund capital expenditure	42,106	19,868
HRA capital expenditure	40,292	46,172
<b>Total capital expenditure</b>	<b>82,398</b>	<b>66,040</b>

8.3 The main variances are as follows:

- On-lending to Colchester Commercial Holdings Limited £26.6m. This relates to the delays in the development of Mill Road site.
- Additional HRA expenditure has been incurred due to delays in the 2020/21 programme which have been reprofiled in 2021/22

### Changes to the financing of the capital programme

8.4 Funding of the capital programme is updated for the lower than expected level of expenditure. The Medium Term Financial Forecast provides minimum revenue provision and interest for new debt.

	Table 4 - New Borrowing Requirement 2021/22 All £k	Original Estimate	Revised Estimate
1	General Fund capital expenditure	42,106	19,868
2	HRA capital expenditure	40,292	46,172
3	Total capital expenditure	<b>82,398</b>	<b>66,040</b>
	Resourced by:		
4	Capital receipts	2,369	1,455
5	Capital grants	25,585	11,784
6	Capital reserves	10,950	6,134
7	Finance leases	0	0
8	Revenue	9,790	10,518
9	New borrowing requirement	33,704	36,149

### Capital Financing Requirement (CFR)

8.5 The following table shows the CFR, the Council's total need to borrow for capital purposes including both past and current financial years.

Table 5 - CFR 2021/22 All £k	Original Estimate	Revised Estimate
Opening balance	200,631	187,284
Unfinanced capital expenditure	42,452	36,149
Less MRP	2,248	2,211
Closing balance	240,835	221,222

### Limits to borrowing activity

8.6 Councils have a responsibility to ensure that over the medium-term net borrowing is only made for capital purposes. Gross external debt should not - except in the short term - exceed the Capital Financing Requirement in the preceding year plus any additional Capital Financing Requirement for the current and the next two financial years. This allows flexibility for limited early borrowing for future years. The Council

has approved a policy for borrowing in advance of need which will be adhered to if this proves prudent.

Table 6 - Limits to Borrowing activity 2021/22 All £k	Original Estimate	Revised Estimate
Gross Debt 1 April 2021	169,944	169,944
Borrowing 2021/22	42,578	0
Other Long Term Liabilities	0	0
Gross Debt 31 March	212,522	169,944
CFR	240,835	221,222
Under/(Over) Borrowed Position	28,313	51,278

- 8.7 The Council is expected to be in an under-borrowed position compared to its CFR at the end of 2021/22. This is in line with the Treasury Management Strategy. The Council can demonstrate that its borrowing is for capital investment purposes only.
- 8.8 The Operational Boundary is the limit which external debt is not normally expected to exceed.

Table 7 – Operational Boundary All £k	Original Estimate	Revised Estimate
Operational Boundary	250,835	250,835

## 9 Investment Portfolio 2021/22

- 9.1 In accordance with the Prudential Code, the Council is required to ensure that the security and liquidity of its investments take priority over the level of return. As detailed at paragraph 5, it is a very difficult investment market in terms of returns
- 9.2 The Council had £79.5m of investments as at 30<sup>th</sup> September 2021 (£58m as at 30 September 2020) all repayable during 2021/22. These investments are short-term repayable within the current financial year of which £30.000m is currently held in liquid money market funds. This is significantly higher than previous years given the large amount of forward funding the Council has received from Government in the form of Covid grants and section 31 grants in relation to business rate reliefs. It is expected that the level of investments will reduce to normal levels by year end.
- 9.3 A full list of investments is listed at Appendix B (confidential section of the agenda).
- 9.4 Given the historic low interest rates, the Council is expected to make return on its investments of approximately £0.050m for the 2021/22 against a budget of £0.278m.
- 9.5 The Head of Finance confirms that the approved limits within the Annual Investment Strategy were not breached during the first six months of the year.

## 10 Borrowing

- 10.1 The Council is forecast to have borrowings of £169.944m at the end of the financial year, with the expectation of utilising £51.278m of cash flow funds in lieu of borrowing to fund the capital programme. This is prudent and cost-effective approach in the current economic climate and interest rate structure.

10.2 The majority of borrowing is in relation to the Housing Revenue Account which currently stands at £127.445m and £42.500m in relation to General Fund activity. A breakdown on the type of loans is provided below:

Breakdown of Loans All £k	Loan Value £m
Public Works Loan Board (PWLB)	132,094
Local authorities	23,350
Banks	9,000
LOBOs - Lender Option Borrow Option	5,500

10.3 No additional borrowing has taken place during 2021/22 and given current capital expenditure projections, the strategy is to continue to internally borrow to reduce the cost of borrowing.

## 11 PWLB interest rate structure

11.1 Changes to PWLB facilities were announced in November 2020 preventing borrowing from PWLB if the Council's capital programme included borrowing for yield as its primary objection. Further announcements have since been made with the anticipation that there will be further changes to the prudential code and Treasury management guidance applying in 2022/23. The Council is awaiting final details and clarification of the changes to the Code.

11.2 At this stage the Council does not have or propose to make borrow for yield investments. However until the guidance and any regulations have been finalised the full impact will not be known.

## 12. Standard References

11.1 There are no particular references to the Strategic Plan; consultation; or publicity consideration; community safety; health and safety implications.

## 13. Financial implications

12.1 As set out in the body of this report.

## 13. Risk Management Implications

13.1 The Council's Treasury Management Strategy supported by the Treasury Management Practices, reflects the council's low risk appetite for treasury management investments, in line with the current economic outlook. The mid-year review provides the opportunity to report and review on the practices for the first six months of the financial year against the Council's strategy and take remedial action as required.

## Appendices

Appendix A – Economic Update from Link Asset Services

Appendix B – Confidential paper

## Appendix A

### Economics and interest rates

#### **MPC meeting 24.9.21**

- The Monetary Policy Committee (MPC) voted unanimously to leave Bank Rate unchanged at 0.10% and made no changes to its programme of quantitative easing purchases due to finish by the end of this year at a total of £895bn; two MPC members voted to stop the last £35bn of purchases as they were concerned that this would add to inflationary pressures.
- There was a major shift in the tone of the MPC's minutes at this meeting from the previous meeting in August which had majored on indicating that some tightening in monetary policy was now on the horizon, but also not wanting to stifle economic recovery by too early an increase in Bank Rate. In his press conference after the August MPC meeting, Governor Andrew Bailey said, "the challenge of avoiding a steep rise in unemployment has been replaced by that of ensuring a flow of labour into jobs" and that "the Committee will be monitoring closely the incoming evidence regarding developments in the labour market, and particularly unemployment, wider measures of slack, and underlying wage pressures." In other words, it was flagging up a potential danger that labour shortages could push up wage growth by more than it expects and that, as a result, CPI inflation would stay above the 2% target for longer. It also discounted sharp increases in monthly inflation figures in the pipeline in late 2021 which were largely propelled by events a year ago e.g., the cut in VAT in August 2020 for the hospitality industry, and by temporary shortages which would eventually work their way out of the system: in other words, the MPC had been prepared to look through a temporary spike in inflation.
- So, in August the country was just put on alert. However, this time the MPC's words indicated there had been a marked increase in concern that more recent increases in prices, particularly the increases in gas and electricity prices in October and due again next April, are, indeed, likely to lead to faster and higher inflation expectations and underlying wage growth, which would in turn increase the risk that price pressures would prove more persistent next year than previously expected. Indeed, to emphasise its concern about inflationary pressures, the MPC pointedly chose to reaffirm its commitment to the 2% inflation target in its statement; this suggested that it was now willing to look through the flagging economic recovery during the summer to prioritise bringing inflation down next year. This is a reversal of its priorities in August and a long way from words at earlier MPC meetings which indicated a willingness to look through inflation overshooting the target for limited periods to ensure that inflation was 'sustainably over 2%'. Indeed, whereas in August the MPC's focus was on getting through a winter of temporarily high energy prices and supply shortages, believing that inflation would return to just under the 2% target after reaching a high around 4% in late 2021, now its primary concern is that underlying price pressures in the economy are likely to get embedded over the next year and elevate future inflation to stay significantly above its 2% target and for longer.

Financial markets are now pricing in a first increase in Bank Rate from 0.10% to 0.25% in February 2022, but this looks ambitious as the MPC has stated that it wants to see what happens to the economy, and particularly to employment once furlough ends at the end of September. At the MPC's meeting in February it will only have available the employment figures for November: to get a clearer picture of employment trends, it would need to wait until the May meeting when it would have data up until February. At its May meeting, it will also have a clearer understanding of the likely peak of inflation

**Supply shortages.** The pandemic and extreme weather events have been highly disruptive of extended worldwide supply chains. At the current time there are major queues of ships unable to unload their goods at ports in New York, California and China. Such issues have led to mis-distribution of shipping containers around the world and have contributed to a huge increase in the cost of shipping. Combined with a shortage of semi-conductors, these issues have had a disruptive impact on production in many countries. Many western countries are also hitting up against a difficulty in filling job vacancies. It is expected that these issues will be gradually sorted out, but they are currently contributing to a spike upwards in inflation and shortages of materials and goods on shelves.

### 3.2 Interest rate forecasts

The Council's treasury advisor, Link Group, provided the following forecasts on 29th September 2021 (PWLB rates are certainty rates, gilt yields plus 80bps):

Link Group Interest Rate View 29.9.21		Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24
<b>BANK RATE</b>		0.10	0.10	0.25	0.25	0.25	0.25	0.50	0.50	0.50	0.75
3 month ave earnings		0.10	0.10	0.20	0.20	0.30	0.40	0.50	0.50	0.60	0.70
6 month ave earnings		0.20	0.20	0.30	0.30	0.40	0.50	0.60	0.60	0.70	0.80
12 month ave earnings		0.30	0.40	0.50	0.50	0.50	0.60	0.70	0.80	0.90	1.00
5 yr PWLB		1.40	1.40	1.50	1.50	1.60	1.60	1.60	1.70	1.70	1.70
10 yr PWLB		1.80	1.80	1.90	1.90	2.00	2.00	2.00	2.10	2.10	2.10
25 yr PWLB		2.20	2.20	2.30	2.30	2.40	2.40	2.40	2.50	2.50	2.60
50 yr PWLB		2.00	2.00	2.10	2.20	2.20	2.20	2.20	2.30	2.30	2.40

The coronavirus outbreak has done huge economic damage to the UK and to economies around the world. After the Bank of England took emergency action in March 2020 to cut Bank Rate to 0.10%, it left Bank Rate unchanged at its subsequent meetings.

As shown in the forecast table above, one increase in Bank Rate from 0.10% to 0.25% has now been included in quarter 2 of 2022/23, a second increase to 0.50% in quarter 2 of 23/24 and a third one to 0.75% in quarter 4 of 23/24.

### GILT YIELDS / PWLB RATES.

Since the start of 2021, there has been a lot of volatility in gilt yields, and hence PWLB rates. During the first part of the year, US President Biden's, and the Democratic party's determination to push through a \$1.9trn (equivalent to 8.8% of GDP) fiscal boost for the US economy as a recovery package from the Covid pandemic was what unsettled financial markets. However, this was in addition to the \$900bn support package already passed in December 2020 under President Trump. This was then followed by additional Democratic ambition to spend further huge sums on infrastructure and an American families plan over the next decade which are caught up in Democrat / Republican haggling. Financial markets were alarmed that all this stimulus, which is much bigger than in other western economies, was happening at a time in the US when: -

1. A fast vaccination programme has enabled a rapid opening up of the economy.
2. The economy had already been growing strongly during 2021.
3. It started from a position of little spare capacity due to less severe lockdown measures than in many other countries. A combination of shortage of labour and supply bottle necks is likely to stoke inflationary pressures more in the US than in other countries.
4. And the Fed was still providing monetary stimulus through monthly QE purchases.

These factors could cause an excess of demand in the economy which could then unleash stronger and more sustained inflationary pressures in the US than in other western

countries. This could then force the Fed to take much earlier action to start tapering monthly QE purchases and/or increasing the Fed rate from near zero, despite their stated policy being to target average inflation. It is notable that some Fed members have moved forward their expectation of when the first increases in the Fed rate will occur in recent Fed meetings. In addition, more recently, shortages of workers appear to be stoking underlying wage inflationary pressures which are likely to feed through into CPI inflation. A run of strong monthly jobs growth figures could be enough to meet the threshold set by the Fed of "substantial further progress towards the goal of reaching full employment". However, the weak growth in August, (announced 3.9.21), has spiked anticipation that tapering of monthly QE purchases could start by the end of 2021. These purchases are currently acting as downward pressure on treasury yields. As the US financial markets are, by far, the biggest financial markets in the world, any trend upwards in the US will invariably impact and influence financial markets in other countries. However, during June and July, longer term yields fell sharply; even the large non-farm payroll increase in the first week of August seemed to cause the markets little concern, which is somewhat puzzling, particularly in the context of the concerns of many commentators that inflation may not be as transitory as the Fed is expecting it to be. Indeed, inflation pressures and erosion of surplus economic capacity look much stronger in the US than in the UK. As an average since 2011, there has been a 75% correlation between movements in 10 year treasury yields and 10 year gilt yields. This is a significant UPWARD RISK exposure to our forecasts for longer term PWLB rates. However, gilt yields and treasury yields do not always move in unison.

There are also possible DOWNSIDE RISKS from the huge sums of cash that the UK populace have saved during the pandemic; when savings accounts earn little interest, it is likely that some of this cash mountain could end up being invested in bonds and so push up demand for bonds and support their prices i.e., this would help to keep their yields down. How this will interplay with the Bank of England eventually getting round to not reinvesting maturing gilts and then later selling gilts, will be interesting to keep an eye on.

The balance of risks to medium to long term PWLB rates: -

- There is a balance of upside risks to forecasts for medium to long term PWLB rates.

### **A new era – a fundamental shift in central bank monetary policy**

One of the key results of the pandemic has been a fundamental rethinking and shift in monetary policy by major central banks like the Fed, the Bank of England and the ECB, to tolerate a higher level of inflation than in the previous two decades when inflation was the prime target to bear down on so as to stop it going above a target rate. There is now also a greater emphasis on other targets for monetary policy than just inflation, especially on 'achieving broad and inclusive "maximum" employment in its entirety' in the US before consideration would be given to increasing rates.

- The Fed in America has gone furthest in adopting a monetary policy based on a clear goal of allowing the inflation target to be symmetrical, (rather than a ceiling to keep under), so that inflation averages out the dips down and surges above the target rate, over an unspecified period of time.
- The Bank of England has also amended its target for monetary policy so that inflation should be 'sustainably over 2%' and the ECB now has a similar policy.
- For local authorities, this means that investment interest rates and very short term PWLB rates will not be rising as quickly or as high as in previous decades when the economy recovers from a downturn and the recovery eventually runs out of spare capacity to fuel continuing expansion.
- Labour market liberalisation since the 1970s has helped to break the wage-price spirals that fuelled high levels of inflation and has now set inflation on a lower path which makes this shift in monetary policy practicable. In addition, recent changes in flexible employment practices, the rise of the gig economy and technological changes, will all help to lower inflationary pressures.

Governments will also be concerned to see interest rates stay lower as every rise in central rates will add to the cost of vastly expanded levels of national debt; (in the UK this is £21bn for each 1% rise in rates). On the other hand, higher levels of inflation will help to erode the real value of total public debt.





## Governance and Audit Committee

Item  
**8**

23 November 2021

Report of	Assistant Director Corporate and Improvement	Author	Darren Brown 282891
Title	<b>Financial Monitoring Report – April to September 2021</b>		
Wards affected	Not applicable		

### 1. Executive Summary

1.1 This report gives the Committee the opportunity to hold Service Managers and Portfolio Holders accountable for their budgets. The financial position is summarised as follows:-

- The General Fund is showing a net underspend against services of £1,396k as at period 6. This includes less expenditure of £400k and more income of £996k, compared to profiled budgets.
- The current forecast outturn position for the General Fund is a net underspend of £799k, assuming the agreed use of reserves of £2.4m in the budget.
- The Housing Revenue Account is showing a net underspend of £371k as at period 6 and is forecast to be on budget at the year-end.

1.2 Assistant Directors and their budget holders have undertaken a thorough review of the financial position for their services, which is reflected in this report. In addition, SMT continues to monitor the budget position on a monthly basis. The next report to the Committee will consider the position after 9 months.

1.3 Given the forecast outturn underspend on the General Fund of £799k, this would mean we would need to use less reserves than originally agreed in the budget, to deliver an on-budget year end position.

1.4 As committed at the 7 September 2021 Governance and Audit Committee meeting this monitoring report now includes:

- 1.4.1 An analysis of Department of Levelling Up Housing and Communities income loss grant claimed.
- 1.4.2 Information on the confidence limits of income forecasts

### 2. Action required

2.1 The Committee is asked to consider the financial performance of General Fund Services and the Housing Revenue Account (HRA) for the first six months of 2021/22, and to note the forecast budget underspend of £799k on the General Fund and that this would necessitate less reserves being used to deliver an on-budget year-end position than originally assumed.

### **3. Reason for scrutiny**

3.1 Monitoring of financial performance is important to ensure that:

- Service expenditure remains within cash-limited budgets.
- Potential variances at year-end are identified early so that remedial action can be taken to recover the position or 'recycle' any surplus budgets.
- Performance targets are being met.

3.2 This report also gives the committee the opportunity to hold Service Managers and Portfolio Holders accountable for their budgets.

### **4. Background**

4.1 This report reviews the Council's overall position based on profiled income and expenditure for the six months to 30 September 2021, and also shows a projection of the outturn figures for the full year. All the information presented in respect of General Fund Services shows the position based on net 'direct costs'. The review of the Housing Revenue Account is different in that it shows all costs, both direct and indirect.

#### **Summary Position**

4.2 The projected outturn for the General Fund is currently a net underspend of £799k, assuming the agreed use of reserves of £2.4m in the budget. The Housing Revenue Account forecast outturn position is currently to be on budget.

4.3 The General Fund position is set out in more detail in the following paragraphs and the HRA position explained in paragraphs 4.20 to 4.24. Budgets carried forward from 20/21 are now included in the schedules within this report, and as such will be monitored as part of the overall position.

#### **General Fund – Position to 30 September 2021**

##### *Service Budgets*

4.4 Appendix A shows the current budget variances and forecast outturn variances by Service Group. The net position shows a variance against profiled budget for General Fund Services (excluding Benefits, NEPP & JMC) of £1,396k (favourable). This comprises total expenditure being £400k lower than expected and total income being £996k higher than expected. Appendix B breaks these variances down by subjective group.

##### *Income*

4.5 Income to the Council is below profiled budgets in a number of areas to date, but most notably in Bereavement and Museums. However, income levels are above profiled budgets within Sport and Leisure, Domestic Waste, Parking and Land Charges.

##### *Expenditure*

4.6 There are underspends against profiled budgets in a number of services areas, predominantly within premises and transport costs. This can be as a result of profiling of budgets as well as timing of expenditure.

4.7 Benefits payments are not shown in Appendix A & B to avoid distorting the reported position for Service Groups. It is currently projected that this area will be on budget at year end, when the final subsidy claim is paid. Furthermore, NEPP and JMC variances are not included in the Appendix A & B totals, given these areas are ring-fenced and are reported to the relevant joint committee.

## Outturn Forecast / Risk Areas

4.8 This is the second formal review this year of the 2021/22 budget position, and the current forecast outturn is a net underspend of £799k, assuming the agreed use of reserves of £2.4m in the budget.

	£'000	
Service budgets	144	See paras. 4.9, 4.10 and Appendix C
Technical / Corporate Items	(943)	
<b>Potential net underspend</b>	<b>(799)</b>	

### Service Budgets

4.9 The following table sets out the forecast outturn for all service areas, with outturn variances. This shows a net forecast overspend of £144k. The largest areas contributing to the net position are;

- Community: A shortfall in Museums income of £96k and Bereavement income of £115k.
- Neighbourhood Services: £175k pressure due to the vacancy factor target potentially not being met, £429k net overspend on agency/employee costs, £125k pressure relating to Hythe Quay wall repairs, £74k saving on contractor costs, £498k more paper collection/recycling income, £80k loss of income in trade waste, and a shortfall in Market and Beach Hut income of £166k.
- Place & Client: £86k more planning income, £111k Amphora dividend forecast in line with the business plan, and £363k more net income from Sport and Leisure.
- Customer: £73k more land charges income.
- Corporate & Improvement: £50k employees pressure in Governance and £50k for members equipment (hire costs for streaming committee meetings), and £79k less travel plan parking income.
- £100k more income forecast from the Council Tax Sharing Agreement.

Service	Forecast outturn		
	Expenditure £'000	Income £'000	Net £'000
Corporate & Improvement (incl. CDC)	134	(36)	98
EMT (including additional Coronavirus costs)	(8)	-	(8)
Community	(7)	191	184
Customer	32	(70)	(38)
Environment	746	(246)	500
Place & Client	(196)	(396)	(592)
<b>Total all services</b>	<b>701</b>	<b>(557)</b>	<b>144</b>

### Appendix C

4.10 Appendix C shows the original budget, the outturn forecast and variance. The purpose of this table is to bring together the overall revenue budget and show the impact of Government support and the required use of reserves.

4.11 As shown, the 21/22 budget includes a use of reserves to support covid of £2.4million and to balance the budget, given the impact of Coronavirus on our income earning services. The budget report agreed at Cabinet on the 13th October 2021 stated that the Head of Finance in consultation with the Deputy Leader and Portfolio Holder for Resources determine the reserves to be used in 2021/22 to fulfil the requirements to meet Covid costs.

4.12 The intention is that the use of reserves for covid will be the last source of funding in determining the outturn position, meaning that reserves will be preserved as much as possible. Given the forecast outturn at Period 6 is an underspend of £799k, then our use of reserves would potentially reduce from £2.400million to £1.601million at year-end.

*Corporate / Technical Items*

4.13 The budget includes a number of corporate and technical budget areas such as net interest earnings, the provision to repay debt, pension costs and some non-service specific grants. It is currently forecast that there will be a saving on interest payable of £400k, as we haven't needed to borrow as planned given our higher cash balances and thus the ability to internally borrow. Furthermore, there is a saving of £123k relating to the 21/22 pay award assumptions included in the budget.

4.14 The 21/22 budget included an initial estimate of £500k for Sales, Fees & Charges income support from the Government for Quarter 1. Based on the actual Quarter 1 return we have claimed £920k, therefore additional income support of £420k compared to the budget.

4.15 As part of the Quarter 1 position reviewed by the Committee for the current financial year, a breakdown of the income received from the Government under the Sales, Fees & Charges income loss support scheme was requested. The table below shows this for each financial year and is shown under the headings required by the Government. As a reminder, 2020/21 net losses claimed were for the full financial year, whereas for 2021/22 we are only able to claim for net losses for the 1<sup>st</sup> quarter.

<b>Government Category</b>	<b>Income Loss Support Grant Claimed</b>		
	<b>2020/21</b>	<b>2021/22</b>	<b>Notes</b>
	<b>£'000</b>	<b>£'000</b>	
Off-street parking	(1,614)	(236)	
On-street parking	(628)	(146)	
Recreation and Sport	(3,154)	(486)	
Culture and Heritage	(469)	(192)	
Regulatory Services	(101)	(29)	e.g. Licensing, Market & Street Trading
Building Control	(53)	4	
Trade Waste	(79)	6	
<b>Total Grant Claimed</b>	<b>(6,098)</b>	<b>(1,077)</b>	
<i>of which:-</i>			
Retained by CBC	(5,432)	(920)	
Claimed on behalf of NEPP	(628)	(146)	On-Street Parking
Claimed on behalf of CIMS	(38)	(11)	Museums Retail
<b>Total Grant Claimed</b>	<b>(6,098)</b>	<b>(1,077)</b>	

4.16 Appendix D sets out details of all forecast variances against service budgets at the year-end totalling £144k. To provide some context on the scale of the variances shown in Appendix D, a percentage value has been included within the comments which shows the proportion of the relevant budget that it represents. For example, an underspend due to vacant posts or the vacancy factor would be expressed as a proportion of the total employees budget for that area.

### **Summary position and action proposed**

4.17 The forecast outturn shows a potential net underspend of £799k assuming the agreed use of reserves of £2.4m. The impact of Coronavirus and related economic uncertainty on the Councils finances is continually being reviewed, and therefore further more detailed work will continue to be undertaken during Quarter 3 to ensure forecast outturn positions are robust, including those income areas where they have been particularly impacted by Coronavirus and as recovery progresses and customer behaviour moves towards pre-covid levels.

4.18 Assistant Directors and their budget holders have undertaken a thorough review of the financial position for their services, which is reflected in this report. In addition, the Senior Management Team continues to monitor the budget position on a monthly basis. The 9 month position will be reported to this Committee in March.

4.19 The Committee has asked for information on confidence levels associated with income predictions, to give a sense of how much volatility is associated with the financial position. It is important to emphasise that all forecasts are the responsibility of the manager who is delivering that service, as they have the information to continuously review what is driving income as the year progresses, such as customer demand and activity, thus enabling increased accuracy as we move through the year. The 21/22 budget already allowed for a significant reduction in income due to the impact of Coronavirus, and it isn't expected this would be higher unless there was a change in Government policy, such as moving the country back into another national lockdown. Clearly that is something that is very difficult to predict, but the forecasts within this report are based on current known Government guidance. As the final outturn is unknown until the end of the financial year, it is very difficult to set a confidence level for forecasts.

### **Housing Revenue Account**

4.20 The Housing Revenue Account (HRA) is a ring-fenced account which is affected by a number of variable factors. At the end of September 2021, the HRA is showing a net underspend of £371k compared to the profiled budget for the same period. This is primarily due to lower expenditure on Premises costs of £453k and Supplies and Services of £170k, and £257k less income than budgeted.

#### *Position to date*

4.21 Premises related costs are showing an underspend of £453k as at the end of September 2021. Overall, there is a net underspend of £104k on Repairs and Maintenance, which primarily relates to the timing of expenditure on repairs and maintenance of pumping stations, Homeless Persons Units and other delegated areas. There are further underspends of £16k on Council Tax on void properties, £85k on Grounds Maintenance budgets and £244k on Utility and Water costs which relate to the timing of expenditure.

4.22 Supplies & Services costs are underspent by £170k at the end of September. There is a general underspend across most budget headings, which primarily relate to the timing of expenditure, the main area being IT costs and the new housing management system.

4.23 We have received £257k less income at the end of September 2021. This primarily reflects the net impact of rental & service charge income being lost from dwellings and garages than assumed within the budget, through a combination of voids and the level of Right to Buy sales, along with the timing of acquisition and additions to our housing stock.

#### *Forecast Outturn*

4.24 The HRA is currently forecast to be on budget at the year-end. Any underspend or overspend that occurs in the year will be used to fund a greater/lesser proportion of our Housing Capital Programme through a variation to the Revenue Contribution to Capital.

## **5. Standard References**

5.1 Having considered consultation, publicity, equality, diversity and human rights, community safety, and health and safety implications, there are none that are significant to the matters in this report.

## **6. Strategic Plan References**

6.1 The priorities within the Strategic Plan are reflected in the Medium-Term Financial Forecast, which makes assumptions regarding government grant/funding and Council Tax income and identifies where necessary savings will be found in order to achieve a balanced budget. The 2021/22 revenue budget was prepared in accordance with the Strategic Plan's priorities, in the context of the Council facing growing financial pressures. Budget monitoring enables the financial performance against these priorities to be assessed.

## **7. Financial Implications**

7.1. As set out above.

## **8. Environmental and Climate Change Implications**

8.1. All budget measures will be assessed for their likely environmental impact, reflecting the Council's commitment to be 'carbon neutral' by 2030. Environment and Climate Change is an essential cross-cutting theme in the Council's post-Covid recovery planning.

## **9. Risk Management Implications**

9.1. Risk management is used throughout the budget cycle, and this is reflected in the strategic risk register. The 2021/22 revenue budget report that was approved by Council in February 2021 took into consideration a number of potentially significant risk areas that had been identified during the budget process. In addition, Assistant Directors identify a number of both positive and negative risk areas during the year.

9.2. Extensive modelling work has been undertaken to understand the impacts and variables arising from the crisis.

9.3. Leisure and commercial income is very dependent on events beyond the Council's control, including the return of consumer confidence and the pace of recovery.

9.4. Modelling has been undertaken with service managers to assess the potential range of impacts before adopting the assumptions reflected within the report.

9.5. All the above and other significant uncertainties and risks will have to be managed. Further material change is likely to budget assumptions and the actions needed to ensure a balanced budget.

## **Background Papers**

None

**Period 6 – Current Budget Variances and Forecast Outturn Variances by Service Area**

	Area	Position to date			Forecast Outturn		
		Spend	Income	Net	Spend	Income	Net
		£'000	£'000	£'000	£'000	£'000	£'000
	<b>Corporate &amp; Democratic Core</b>	(90)	67	(23)	-	(100)	(100)
	<b>Total</b>	<b>(90)</b>	<b>67</b>	<b>(23)</b>	-	<b>(100)</b>	<b>(100)</b>
	<b>Executive Management Team</b>						
	EMT	(34)	-	(34)	(17)	-	(17)
	Coronavirus	16	(8)	8	9	-	9
	<b>Total</b>	<b>(18)</b>	<b>(8)</b>	<b>(26)</b>	<b>(8)</b>	-	<b>(8)</b>
	<b>Community</b>						
	Assistant Director Communities	(9)	-	(9)	(6)	-	(6)
	Licensing & Food Safety	-	(10)	(10)	10	2	12
	Community Safety	(1)	-	(1)	-	-	-
	Environmental Health Services	2	3	5	-	5	5
	Building Control	(7)	15	8	(9)	-	(9)
	Community Initiatives	(67)	(1)	(68)	(30)	-	(30)
	Private Sector Housing	(4)	(24)	(28)	5	(52)	(47)
	Bereavement Services	(37)	111	74	42	115	157
	Cultural Services	(12)	13	1	(19)	25	6
	Colchester Museums	(11)	65	54	-	96	96
	<b>Subtotal</b>	<b>(146)</b>	<b>172</b>	<b>26</b>	<b>(7)</b>	<b>191</b>	<b>184</b>
	Colchester & Ipswich Museums	(38)	32	(6)	(5)	63	58
	<b>Total</b>	<b>(184)</b>	<b>204</b>	<b>20</b>	<b>(12)</b>	<b>254</b>	<b>242</b>
	<b>Customer</b>						
	Assistant Director Customers	4	-	4	4	-	4
	Accounts & Debt	8	(6)	2	6	-	6
	Local Taxation & Business Rates	(28)	8	(20)	(10)	3	(7)
	Benefits & Hub	(39)	(4)	(43)	2	-	2
	Contact & Support Centre	13	3	16	3	-	3
	Electoral Services	134	(126)	8	1	-	1
	Customer Digital & Systems	-	-	-	(2)	-	(2)
	Land Charges	(2)	(45)	(47)	28	(73)	(45)
	<b>Subtotal</b>	<b>90</b>	<b>(170)</b>	<b>(80)</b>	<b>32</b>	<b>(70)</b>	<b>(38)</b>
	Benefits - Payments & Subsidy	(938)	2,527	1,589	-	-	-
	<b>Total</b>	<b>(848)</b>	<b>2,357</b>	<b>1,509</b>	<b>32</b>	<b>(70)</b>	<b>(38)</b>
	<b>Environment</b>						
	Assistant Director Environment	(3)	-	(3)	(9)	-	(9)
	Neighbourhood Services	217	(119)	98	755	(246)	509
	Car Parking	(37)	(70)	(107)	-	-	-

	Area	Position to date			Forecast Outturn		
		Spend £'000	Income £'000	Net £'000	Spend £'000	Income £'000	Net £'000
	<b>Subtotal</b>	<b>177</b>	<b>(189)</b>	<b>(12)</b>	<b>746</b>	<b>(246)</b>	<b>500</b>
	Parking Partnership (NEPP)	(26)	343	317	32	193	225
	<b>Total</b>	<b>151</b>	<b>154</b>	<b>305</b>	<b>778</b>	<b>(53)</b>	<b>725</b>
	<b>Place &amp; Client</b>						
	Assistant Director Place & Client	1	-	1	(17)	-	(17)
	Place Strategy	59	(7)	52	5	-	5
	Housing	377	(207)	170	(16)	-	(16)
	Planning	32	(86)	(54)	15	(86)	(71)
	Sustainability & Climate Change	48	-	48	7	-	7
	Garden Communities	-	-	-	-	-	-
	<b>Subtotal</b>	<b>517</b>	<b>(300)</b>	<b>217</b>	<b>(6)</b>	<b>(86)</b>	<b>(92)</b>
	<i>Company Related:-</i>						
	Client – Commercial Company	-	-	-	-	(111)	(111)
	Corporate Asset Management	(56)	53	(3)	1	-	1
	Commercial & Investment	(145)	(158)	(303)	-	(27)	(27)
	Sport & Leisure	(672)	(459)	(1,131)	(191)	(172)	(363)
	<b>Total</b>	<b>(356)</b>	<b>(864)</b>	<b>(1,220)</b>	<b>(196)</b>	<b>(396)</b>	<b>(592)</b>
	<b>Corporate &amp; Improvement</b>						
	Assistant Director Corporate & Improvement	-	10	10	-	-	-
	Finance	(78)	2	(76)	-	-	-
	ICT	(22)	(15)	(37)	38	(15)	23
	People and Performance	(57)	38	(19)	(5)	79	74
	Governance	71	(34)	37	90	-	90
	Communications	29	(5)	24	11	-	11
	<b>Total</b>	<b>(57)</b>	<b>(4)</b>	<b>(61)</b>	<b>134</b>	<b>64</b>	<b>198</b>
	<b>Total (excl. Benefits, NEPP &amp; JMC)</b>	<b>(400)</b>	<b>(996)</b>	<b>(1,396)</b>	<b>701</b>	<b>(557)</b>	<b>144</b>
	<b>Total (all)</b>	<b>(1,402)</b>	<b>1,906</b>	<b>504</b>	<b>728</b>	<b>(301)</b>	<b>427</b>

**Current Budget Variances and Forecast Outturn Variances by Subjective Group**

		Position to date			Forecast Outturn		
		Actual	Budget	Variance	Actual	Budget	Variance
Subjective	£'000	£'000	£'000	£'000	£'000	£'000	£'000
<b>Expenditure</b>							
Employees	12,138	12,082	56	24,655	24,107	548	
Premises Related	3,804	4,236	(432)	7,477	7,435	42	
Transport Related	817	909	(92)	1,994	1,968	26	
Supplies & Services	4,408	4,304	104	9,205	9,075	130	
Third Party Payments	2,782	2,828	(46)	5,145	5,190	(45)	
Transfer Payments	230	221	9	442	442	0	
Capital Financing Costs	1	0	1	110	110	0	
<b>Total</b>	<b>24,180</b>	<b>24,580</b>	<b>(400)</b>	<b>49,028</b>	<b>48,327</b>	<b>701</b>	
<b>Income</b>							
Government Grant	(918)	(772)	(146)	(798)	(801)	3	
Other Grants & Reimbursements	(2,045)	(1,994)	(51)	(3,866)	(3,483)	(383)	
Customer & Client Receipts	(10,626)	(9,858)	(768)	(19,478)	(19,301)	(177)	
Income-Interest	(145)	(114)	(31)	(227)	(227)	0	
Inter Account Transfers	0	0	0	0	0	0	
<b>Total</b>	<b>(13,734)</b>	<b>(12,738)</b>	<b>(996)</b>	<b>(24,369)</b>	<b>(23,812)</b>	<b>(557)</b>	
<b>Net</b>	<b>10,446</b>	<b>11,842</b>	<b>(1,396)</b>	<b>24,659</b>	<b>24,515</b>	<b>144</b>	

Summary showing Original Council budget, revised for Coronavirus and latest forecasts.

	2021/22 Original Budget	2021/22 – P6 Forecast	2021/22 – P6 Forecast Variance
	£'000	£'000	£'000
<b>Base Budget</b>	24,514	24,514	0
One-off items	(2,915)	(2,915)	0
Cost Pressures	2,372	2,372	0
Cost Pressures - Transformation & Recovery	500	500	0
Cost Pressures - Covid-19 - Economic & Income	4,129	4,129	0
Growth Items	375	375	0
Savings	(2,528)	(2,528)	0
Change in use of NHB for one off investment	(1,419)	(1,419)	0
2021/22 Forecast Outturn		(379)	(379)
<b>Forecast Base Budget</b>	<b>25,028</b>	<b>24,649</b>	<b>(379)</b>
<i>Funded By:</i>			
Business Rates Baseline	(4,300)	(4,300)	0
SFA	(4,300)	(4,300)	0
Increase in NNDR / taxbase above baseline	(1,620)	(1,620)	0
Business Rates Pooling	(200)	(200)	0
New Homes Bonus	(2,430)	(2,430)	0
Lower Tier Government Grant	(622)	(622)	0
Government Reimbursement - Covid-19	(993)	(993)	0
Government Reimbursement - Covid-19 - Income Support	(500)	(920)	(420)
<b>Total Gov't grants &amp; business rates</b>	<b>(10,665)</b>	<b>(11,085)</b>	<b>(420)</b>
Council Tax	(12,588)	(12,588)	0
Collection Fund Deficit / (Surplus)	37	37	0
Business Rates Deficit / (surplus)	12,787	12,787	0
Contribution to / (Use of Reserves)	(12,199)	(12,199)	0
Use of Reserves for Covid-19 - 19/20 C/Fwds	(500)	(500)	0
Use of Reserves for Covid-19 - Unringfenced Grants	(950)	(950)	0
Use of Reserves for Covid-19 – Repairs & Renewals	(950)	(151)	799
<b>Total Funding</b>	<b>(25,028)</b>	<b>(24,649)</b>	<b>379</b>
<b>Forecast Overspend / (Underspend)</b>	<b>0</b>	<b>0</b>	<b>0</b>

Forecast Outturn Variances

Service Area	Variance			Comment
	Spend £'000	Income £'000	Net £'000	
<b>EMT</b>				
Executive Management Team	(17)	-	(17)	Underspends forecast across general spend, including consultancy (68%) and due to a vacant director post (5%) offsetting predicated cost of Chief Executive recruitment (100%).
Corona Virus	9	-	9	A code had been set up in the EMT budget to capture Covid costs of pay for those people who have worked additionally on Covid related roles. This was done to capture the information in case we needed to make a claim to MHCLG for such costs. This will result in showing a net overspend in the EMT budget for April and May 2021 pay (100%).
<b>Community</b>				
Assistant Director Community	(6)	-	(6)	Small savings forecasted due to p/t PA vacant post.
Licensing and Food Safety	10	2	12	Forecast overspend of £10k in S&S (47%) on legal costs, unmet survey demand and testing. Estimated income shortfall of £2k (0.5%) in Licensing.
Environmental Health Services	-	5	5	Forecast £6k income shortfall in pest and animal control offset by a small gain in water testing (8%).
Building Control	(9)	-	(9)	Employees underspend forecast of £20k (6%) due to a vacant post. £1k saving on staff mileage claims (8%). This is offset by £12k (106%) forecast overspend on outsourcing surveying services.

Service Area	Variance			Comment
	Spend £'000	Income £'000	Net £'000	
Community Initiatives	(30)	-	(30)	Forecasting £30k (8%) underspend relating to staff salaries. Saving is a mixture of new staff costs on lower spinal column point, recouping some core staff expenditure from grant payments.
Private Sector Housing	5	(52)	(47)	Forecasting small salaries overspend due to a new post added in PSH to help with generating more HMO licensing income. £52k (28%) more income mainly in civil penalties and HMO licences.
Bereavement Services	42	115	157	Salary overspend of £23k (10%) due to an additional Asst Manager role due to start in mid Nov. Post holder will be responsible for increasing recovery of income for assisted funerals and start claiming child burial costs which is a new source of income. The budget will benefit from these in Q4 of 21/22. Other overspend of £19k (15%) is a mixture of equipment service charge, assisted funeral referrals and IT equipment. £112k (7%) income shortfall on Cremations, memorial income, book of remembrance and environmental surcharge. £3k (50%) less income recovery from Assisted Funerals. Income for Cremations, Burials & memorials is expected to increase in the winter/spring months as normal.
Cultural Services	(19)	25	6	Underspend on casual staff costs and overtime of £6k (3%). £8k underspend on third party payments – no fireworks agency. £6k (45%) underspend on goods for resale is offset by £9k (50%) shortfall in VIC sales income. Further income shortfall of £16k (66%) from Guided Tours and Advertising.
Colchester Museums	-	96	96	Forecast less income of £6k (18%) on Guided Tours and £90k (19%) on general admissions and schools income. This is due to Castle's late opening from mid-May and the limited capacity due to Covid restrictions. Admissions net income loss will be reclaimed from the Government under their income loss compensation scheme. This is being recorded corporately.

Service Area	Variance			Comment
	Spend £'000	Income £'000	Net £'000	
Colchester and Ipswich Museums (CIMS)	(5)	63	58	<p>CIMS is a ring-fenced budget. There is a forecast underspend of £14k (14%) on salaries due to vacant posts and reduced casual staff costs. This is offset by forecast overspend of £25k (59%) on third party contractors to backfill the vacant post relating to Exhibitions' costs.</p> <p>£18k (23%) underspend on materials for resale is offset by £36k (22%) shortfall in sales income in Retail. Loss of income on Events forecasted at £22k (51%).</p> <p>Some retail income loss had been reclaimed and will be allocated to CIMS in year.</p>
<b>Customer</b>				
Assistant Director Customers	4	-	4	Small overspend relating to superannuation adjustment (12%).
Accounts & Debt	6	-	6	A net overspend on employee costs across the teams of £22k (3%) offset by underspends on training of £10k (45%) and stationery £7k (64%).
Local Taxation & Business Rates	(10)	3	(7)	An underspend on employee costs of £16k (5%) in the Council Tax team offset by an overspend of £6k (3%) within the NNDR team. The income forecast variance relates to the NNDR Admin Grant (1%).
Benefits & Hub	2	-	2	An overspend on employee costs within The Community Hub of £4k (2%) offset by an underspend on professional subscriptions within Technical £2k (45%).
Contact Support Centre	3	-	3	An overspend on Employee costs due to in year redundancies (100%) is partially offset by an underspend on telephony licence and maintenance costs (100%).

Service Area	Variance			Comment
	Spend £'000	Income £'000	Net £'000	
Electoral Services	1	-	1	Overspend on overtime/casual employee costs within the Elections team following the recent Election (100%).
Customer Digital & Systems	(2)	-	(2)	An overspend on Microsoft Software licences (25.29%) is partially offset by an underspend on employee costs (2.35%).
Land Charges	28	(73)	(45)	A £3k overspend on software licences (19.72%) and £25k on third party payments (75%) is offset by £73k more income (29.51%).
HB – Payments & Subsidy	-	-	-	No variance forecast at this stage of the financial year although close monitoring of overpayment debt collection is carried out regularly. The audit of the 2019/20 claim has now been completed and the final adjustment has been made, which is not material.
<b>Environment</b>				
Assistant Director Environment	(9)	-	(9)	Employee underspends.
Neighbourhood Services	755	(246)	509	£175k employee overspends are forecast due to not having had sufficient vacant posts yet this year to achieve the budget target for vacancies (2.56%). £429k employee overspends are forecast to maintain Waste Collections (12.2%). £125k overspend is forecast on Field Gate Quay repair works following the rapid decline of the quayside (33%). Recycling credits are forecast to exceed the budget by £180k (9.38%) and following global market fluctuations £318k more income derived from the sale of paper and £74k savings on associated contractor costs are forecast (9.36%). A £145k shortfall of income is forecast on Market & Street Trading (62.77%) and a further £80k shortfall is forecast on Trade Waste Collections (12.69%).
North Essex Parking Partnership (NEPP)	32	193	225	NEPP will be 'on budget' after any shortfall variance caused by the emergency is drawn in a planned way from the £1m Reserve.

Service Area	Variance			Comment
	Spend £'000	Income £'000	Net £'000	
<b>Place &amp; Client</b>				
Assistant Director Place & Client	(17)	-	(17)	Variance forecast on employee costs but are likely to change in next few months as agency costs are incurred.
Place Strategy	5	-	5	Forecast overspend on employee costs due to not having had sufficient vacant posts yet this year to achieve the budget target for vacancies (3%). Offset slightly by general underspends in Economic Development as a result of recruitment (1%).
Housing	(16)	-	(16)	Forecast underspend due to vacant post (7%) – this will help offset the above vacancy target.
Planning	15	(86)	(71)	Overspends due to Locum costs (100%) and legal spend (50%) offset slightly by small net underspend across salaries (1%). Planning fees income forecast is £86k more than full year budget, this has been profiled based on the previous 3 years income trend variance and is subject to considerable fluctuations. This will be reviewed at Period 7 (7%).
Sustainability & Climate Change	7	-	7	Forecast overspend on employee costs due to not having had sufficient vacant posts yet this year to achieve the budget target for vacancies, and increment increases due to post changes not fully budgeted (1%) and unbudgeted spend relating to Transport East invoice (100%).
Client - Commercial Company	-	(111)	(111)	The dividend is forecast to be £111k, which is in line with the dividend reported in the CCHL Business Plan considered by Governance and Audit Committee on 19 <sup>th</sup> January 2021.
Corporate Asset Management	1	-	1	The small overspend (£1.4k) relates to a 3 year licence renewal for the Town Hall. No variances have been forecast on Rowan House until timeline for building works is confirmed and external rents are negotiated.

Service Area	Variance			Comment
	Spend £'000	Income £'000	Net £'000	
Commercial & Investment	-	(27)	(27)	<p>Commercial properties have not identified any unbudgeted cost pressures for 2021/22.</p> <p>Income is forecast to be £26.6k (1%) more than the budget – the overall budget target was reduced primarily due to forecasts around the ongoing impact of the Coronavirus. The outturn variance may yet change post lockdown.</p>
Sport and Leisure	(191)	(172)	(363)	<p>Expenditure savings have been forecast on employee costs at £117k (3.8%), and £88k (6%) mainly relating to efficient management of grounds maintenance at Northern Gateway Sports Hub site. An overall income surplus of £172k (4.72%) is forecast at this stage of the year due mainly to Pools (£283k) and Wet Side courses (£50k) following a significant effort by the service to capitalise on customer demand over the summer period. These surpluses are offset by other areas in which income levels are lower than expected. A programme is in place to accelerate income recovery to pre pandemic levels across all Sport and Leisure Services.</p>
<b>Corporate &amp; Improvement (incl. CDC)</b>				
Corporate & Democratic Core	(100)	-	(100)	More income forecast from Council Tax Sharing Agreement (25%).
ICT	38	(15)	23	<p>Overspend forecast on employee costs due to not having had sufficient vacant posts yet this year to achieve the budget target for vacancies (4%).</p> <p>More income than budget is forecast due to one off income for work completed with CBH (100%), and street name and numbering (14%) which will be reviewed monthly.</p>

Service Area	Variance			Comment
	Spend £'000	Income £'000	Net £'000	
People & Performance	(5)	79	74	Overspend forecast on employee costs due to not having had sufficient vacant posts yet this year to achieve the budget target for vacancies (1%) offset by forecast underspend on purchase of staff transport tickets (48%). Less income forecast from staff car parking due to home working and part year closure of Rowan House (91%).
Governance	90	-	90	Overspend forecast in Hallkeepers as a higher saving was allocated to service than could be achieved with the agreed reduction in level of Hallkeepers. Further review of Hallkeepers will be necessary to achieve saving and overspend across employee costs due to not having had sufficient vacant posts yet this year to achieve the budget target for vacancies (6%). Overspend on members equipment hire due to Mark's Tey Radio costs, this could increase while looking into a solution for meetings (100%). This is offset slightly by some savings across supplies and services budgets (0.5%).
Communications	11	-	11	Forecast overspend due to not having had sufficient vacant posts yet this year to achieve the budget target for vacancies (100%).

September 2021	Current Period - September 2021			Forecast Year-End Position		
	Profiled Budget to Period 6	Actual Period 6	Variance (under) / over £'000	Annual Budget £'000	Projected Outturn £'000	Variance (under) / over £'000
	Account Description	£'000	£'000	£'000	£'000	£'000
<b>HRA - Direct &amp; Non-Direct</b>						
<b>EXPENDITURE</b>						
Employees	113	146	33	225	225	-
Premises Related	3,488	3,035	(453)	6,965	6,965	-
Transport Related	-	-	-	1	1	-
Supplies & Services	619	449	(170)	1,088	1,088	-
Third Party Payments	2,237	2,230	(7)	3,839	3,839	-
Transfer Payments	64	33	(31)	128	128	-
Support Services	2,790	2,790	-	3,450	3,450	-
Capital Financing Costs	-	-	-	15,088	14,795	(293)
<b>TOTAL EXPENDITURE</b>	<b>9,311</b>	<b>8,683</b>	<b>(628)</b>	<b>30,784</b>	<b>30,491</b>	<b>(293)</b>
<b>INCOME</b>						
Other Grants & Reimbursements	-	-	-	(139)	(139)	-
Customer & Client Receipts	(16,060)	(15,803)	257	(30,573)	(30,280)	293
Income-Interest	-	-	-	(16)	(16)	-
Inter Account Transfers	-	-	-	(56)	(56)	-
<b>TOTAL INCOME</b>	<b>(16,060)</b>	<b>(15,803)</b>	<b>257</b>	<b>(30,784)</b>	<b>(30,491)</b>	<b>293</b>
<b>TOTAL NET - HRA</b>	<b>(6,749)</b>	<b>(7,120)</b>	<b>(371)</b>	-	-	-



**23 November 2021**

<b>Report of</b>	<b>Assistant Director Corporate and Improvement</b>	<b>Author</b> Paul Cook 505861 Lily Malone
<b>Title</b>	<b>Capital Monitoring Report Quarter 2 2021/22</b>	
<b>Wards affected</b>	Not applicable	

## 1 Executive Summary

- 1.1 This report sets out the Council's Capital Programme against budget for quarter 2 financial year 2021/22. The Capital Programme includes projects delivering General Fund services, the HRA Housing Investment Programme and the Revolving Investment Fund (RIF). It is a significant programme with a high level of investment benefitting the Borough, contributing towards the local economy, and working towards recovery.
- 1.2 In line with the Council's Financial Regulations a review of the schemes included in the capital programme is required on a quarterly basis.

## 2 Action Required

- 2.1 To review the progress on the Capital Programme as set out in this report, the associated spend for the first quarter and the budget forecasts for future years. To review the RAG rating for each scheme as rated by the relevant project manager.
- 2.2 To review the risk analysis on areas where there is a risk of material shortage, inflation, or other increase in costs.

## 3 Reason for Scrutiny

- 3.1 This report gives the Committee the opportunity to hold Service Managers and Portfolio Holders accountable for their budgets and the project delivery progress and outcomes.
- 3.2 The purpose of the report is to ensure:
  - Spending on projects is within the agreed budgets,
  - Budgets are sufficient to enable timely project delivery and support the related service objectives.
  - The Council makes good use of its available capital resources, in accord with the Council's Treasury Management Strategy and associated statutory requirements.
  - Members have assurance that the key risks associated with the Capital Programme are being managed to ensure efficient and effective delivery of the programme.

## 4 Background Information

- 4.1 The Capital Programme was reset for 2021/22 and later years as part of setting the 2021/22 Budget. This report includes new schemes agreed in budget setting and presents the quarter 2 expenditure of the reset 2021/22 Capital Programme.
- 4.2 It should be noted that the Capital Programme mainly consists of schemes where spending is planned across several years. Financial variances can occur as a result of:

- Reprofiling of scheme budgets into the following financial year to reflect scheme progress on site,
- Changes in timing of payments,
- Additional budget requirements due to changes in schemes or unforeseen costs.

## 5 Quarterly Capital Monitoring Position

5.1 The table below provides a summary of the capital programme by service area:

Service	Programme	2021/22 Q2 Expenditure	2021/22 Capital Programme	Future Years' Forecast
	£'000	£'000	£'000	£'000
Communities	9,648	1,773	4,125	5,523
Environment	3,410	56	1,704	1,706
Corporate & Improvement	41,651	1,188	6,940	34,711
Place and Client	12,270	3,005	7,099	5,171
Housing Revenue Account	53,964	10,663	46,172	7,792
<b>Total Capital Programme</b>	<b>120,943</b>	<b>16,685</b>	<b>66,040</b>	<b>54,903</b>

5.2 Capital expenditure was £16.7m against a forecast programme of £66m. This represents 25% of the projected budget. At a similar stage in 2020/21 capital expenditure was £15.7m and 24% of the budget.

5.3 The Capital Programme has been adjusted to reflect S106 released funding, details of which have been reviewed by the relevant portfolio holders.

Project	£'000	Summary
Recreational Ground Old Heath	122.9	Improvement works to recreational and sport facilities.
Priory Street Mosque	10.0	Contribution towards refurbishments to the Mosque.

5.4 There has been capitalised maintenance approved by Performance Management Board and the relevant Portfolio Holder for funding from Repairs and Renewals Reserves or Building Maintenance Plan which will be added into the capital programme in the next quarter.

Project	£'000	Summary
Leisure World Access Control Gates	38.0	Replacement of turnstile gates
Leisure World Pool Filters	77.6	Refurbishment of pool filters throughout Leisure World
Town Hall Boilers	136.0	Replacement of boiler flue

5.5 The Town Deal projects will be included in the Capital Programme once the individual project detail has been finalised.

5.5 The actual expenditure for the year and updated commentary from the budget holders is detailed in Appendix A.

5.6 Appendix A includes a RAG (Red, Amber and Green) status of overall project performance against capital schemes. This has been updated with revised criteria showing an individual

status for three aspects of a project – time, cost, and delivery. The criteria for the RAG is the corporate standard, and has been assessed by the project manager.

5.7 The current RAG position and comments against amber and red RAG rated schemes is detailed in Appendix A.

## **6 Strategic Plan references**

6.1 The Council's Capital Programme is aligned to the Strategic Plan.

## **7 Financial Implications**

7.1 Within the details of this report.

## **8 Risk Management Implications**

8.1 Risk management issues are considered as part of individual capital projects. Currently the key risk within the Capital Programme as reported relates to the finalisation of funding arrangements to enable key schemes primarily within the RIF to progress. Relevant officers are endeavouring to formalise funding arrangements where necessary. The position is being continuously monitored.

## **9 Consultation**

9.1 The Capital Programme is part of annual budget setting and is subject to the normal budget consultation.

## **10 Environmental and Climate Change Implications**

10.1 All projects are assessed for their likely environmental impact, reflecting the Council's commitment to be 'carbon neutral' by 2030. Environment and Climate Change is an essential cross-cutting theme in the Council's recovery planning and a core theme of the new Strategic Plan.

## **11 Equality and Diversity Implications**

11.1 Consideration will be given to equality and diversity issues in respect of the Capital Programme as part of the budget process. This will be done in line with agreed policies and procedures including production of Equality Impact Assessments where appropriate.

## **12 Other Standard References**

12.1 There are no direct Publicity, Human Rights, Community Safety or Health and Safety implications as a result of this report.

## **Background Papers – None**

## Appendix A

Summary	Total Approved Budget	Previous Years Spend	Total Programme	Accrued spend to Q2	Forecast 2021/22	Spend against forecast	Forecast 2022/23	Forecast 2023/24	Forecast 2024/25	Delivery	Timing	Cost
Lending to new Council Housing Company	28,800	1,500	27,300	600	600	100%	26,700	0	0	G	G	G
Property Purchase - 100 Homes	22,000	4,753	17,247	6,679	16,672	40%	575	0	0	A	G	G
Housing Improvement Programme	14,439	0	14,439	1,754	14,439	12%	0	0	0	G	G	G
Purchase of properties - HRA	7,417	0	7,417	35	200	18%	7,217	0	0	A	G	G
Sheltered Accommodation	6,611	0	6,611	370	6,611	6%	0	0	0	G	G	G
Equity Investment in CCHL	7,300	1,500	5,800	0	300	0%	5,500	0	0	G	G	G
Grow-on - former Queen St Bus Depot	4,677	37	4,640	141	3,410	4%	1,230	0	0	A	A	A
Mandatory Disabled Facilities Grants	5,418	825	4,593	456	900	51%	1,280	1,280	1,134	A	A	A
New Build on Garage Sites	4,273	0	4,273	739	4,273	17%	0	0	0	G	A	A
Colchester Northern Gateway Heat Network	4,492	623	3,869	74	2,850	3%	539	480	0	A	A	A
Council House New Build	2,900	0	2,900	844	2,900	29%	0	0	0	G	A	A
Town Centre	4,836	2,857	1,979	24	230	10%	1,000	749	0	G	A	G
Stanway Community Centre	1,892	191	1,701	85	1,001	8%	700	0	0	A	A	A
Facility Loan to CAEL	2,520	1,000	1,520	200	700	29%	620	200	0	A	A	A
St Marks Community Centre	1,500	0	1,500	11	600	2%	800	100	0	G	G	A
CNGS - Infrastructure	1,670	177	1,493	0	250	0%	1,243	0	0	A	A	A
Rowan House Regeneration	1,327	0	1,327	36	995	4%	332	0	0	A	A	R
CNGS - The Walk	3,471	2,446	1,025	1,634	1,025	159%	0	0	0	G	G	A
Shrub End Depot	1,056	67	989	4	289	1%	700	0	0	G	G	A

LFFN Broadband	3,645	2,697	948	1,205	948	127%	0	0	0	A	A	R
Adaptations to Housing Stock	760	0	760	204	760	27%	0	0	0	G	G	G
Light Fleet Replacement	726	0	726	0	676	0%	50	0	0	A	A	G
St Nicholas Square & Balkerne Gardens	695	82	613	21	613	3%	0	0	0	R	R	R
Rowan House Ventilation System	528	0	528	30	308	10%	212	8	0	A	A	A
Fleet Upgrade Caged Tippers	520	0	520	0	0	NA	520	0	0	A	A	A
CNGN - Sports Park	28,838	28,319	519	-69	339	-20%	180	0	0	A	G	G
CNGS - Detailed Planning	1,498	987	511	48	511	9%	0	0	0	G	A	G
Grants to Registered Providers (1-4-1 RTB Receipts Funded)	1,708	1,261	447	0	447	0%	0	0	0	G	G	G
Housing ICT Development	317	0	317	38	317	12%	0	0	0	G	G	G
Garrison Gym Playground	306	0	306	0	0	NA	306	0	0	G	A	G
Mercury Landscaping Works	350	55	295	104	295	35%	0	0	0	G	G	G
Private Sector Renewals - Loans and Grants	375	89	286	21	86	24%	200	0	0	A	A	A
Mercury Theatre Redevelopment Phase 2	9,313	9,040	273	982	273	360%	0	0	0	G	G	R
Leisure World conversion of artificial pitch	250	0	250	0	250	0%	0	0	0	G	G	G
CNG Recreational Play Equipment	250	0	250	0	0	NA	250	0	0	G	G	G
CNG Wastewater Improvements Pumping Station	250	0	250	0	50	0%	200	0	0	A	A	A
Pre development/feasibility funds	250	0	250	0	0	NA	250	0	0	G	G	G
CCTV Monitoring	528	315	213	193	213	91%	0	0	0	G	A	G
Waste Fleet Vehicles	2,816	2,647	169	0	169	0%	0	0	0	G	G	G

Vineyard Car Park Lift Replacement	130	0	130	0	130	0%	0	0	0	G	G	G
Castle Park Cricket Pavilion Extension S106	125	0	125	0	125	0%	0	0	0	G	G	A
Recreation Ground Old Heath	123	0	123	6	123	5%	0	0	0	G	G	G
Sport & Leisure Asset Review	120	0	120	0	0	NA	120	0	0	NA	NA	NA
Leisure World Pool View	120	2	118	3	118	3%	0	0	0	G	G	G
St Botolphs Public Realm	155	37	118	0	118	0%	0	0	0	R	R	G
Rowan House EV Charging Points	114	0	114	23	0	NA	114	0	0	A	G	G
Walls - new merged scheme	110	19	91	3	91	3%	0	0	0	A	A	G
Other Projects			950	187	835	22%	115	0	0			
Total			120,943	16,685	66,040	25%	50,953	2,817	1,134			

## Comments on red rated schemes:

<b>St Nicholas Square</b>
<b>Timing:</b> Delays due to the re-tender of construction contract, the graveyard sale, and highways queries.
<b>Cost:</b> Contract tenders currently out, but due to rising costs it is likely they will be over our current construction budget.
<b>Delivery:</b> Complex project with many interdependencies and land ownerships that are difficult to coordinate.
<b>Approved Budget:</b> External funding contribution £0.7m   CBC funding contribution £0   Total £0.7m
<b>St Botolphs Public Realm</b>
<b>Timing:</b> On hold pending Alumno developments.
<b>Cost:</b> On hold pending Alumno developments.
<b>Delivery:</b> On hold pending Alumno developments.
<b>Approved Budget:</b> External funding contribution £0   CBC funding contribution £0.2m   Total £0.2m

## Comments on amber rated schemes:

<b>Property Purchase – 100 Homes</b>
<b>Timing:</b> This project is currently on target to acquire the 100 properties by March 2022.
<b>Cost:</b> Given the change in the market, there is a possibility we may need to consider carrying forward some of the budget to acquire the remaining properties in 22-23
<b>Delivery:</b> The purchase and acquisition element of this project is green, repairs still need to be carried out.
<b>Approved Budget:</b> External funding contribution £0   CBC funding contribution £22m   Total £22m
<b>Purchase of Properties – HRA</b>
<b>Timing:</b> Unlikely CBC will be able to acquire the 30 properties for 21-22 in the 5 year acquisition programme, due to an insufficient, suitable supply on the open market
<b>Cost:</b> The acquisitions are forecast to be delivered within the predicted budget.
<b>Delivery:</b> We have not competed on any properties this year as the focus is on purchasing the 100 Homes. Expected to acquire 60 properties over the following two financial years.
<b>Approved Budget:</b> External funding contribution £0   CBC funding contribution £7.4m   Total £7.4m
<b>Grow On – Former Queen Street Bus Depot</b>
<b>Timing:</b> Demolition timelines are longer than forecast but will involve very careful works particularly around queen street and the roman wall.
<b>Cost:</b> Demolition & Archaeological costs above budget. Main scheme not yet fully costed as the tender pack is not complete.

**Delivery:** Project and site are complex with a myriad of interdependencies, party walls, and complex groundworks and investigations still required.

**Approved Budget:** External funding contribution £3.7m | CBC funding contribution £0.9m | Total £4.6m

### **Mandatory Disabled Facilities Grants**

**Timing:** Applications are progressing, but contractors' availability has impact on spend on time. Referrals from ECC are also lower due to demand on social care.

**Cost:** Cost of materials are rising as demand continues to be high.

**Delivery:** Contractors continue to be busy, and materials costs are rising, uPVC items are in short supply. Cases are progressing but lead times continue to be higher than previous years.

**Approved Budget:** External funding contribution £4.9m | CBC funding contribution £0.5m | Total £5.4m

### **New Build on Garage Sites**

**Timing:** Delays due to labour and material shortages. Buffet and Scarfe Way were due to complete October 21. Completion is now due March/April' 22 weather permitting.

**Cost:** Currently within budget.

**Delivery:** All sites are being delivered to the agreed brief for the project and 16 homes are being constructed in Phase 2. Phase 3 now started.

**Approved Budget:** External funding contribution £0 | CBC funding contribution £4.2m | Total £4.2m

### **Colchester Northern Gateway Heat Network**

**Timing:** The financial proposition is under review by the Deputy Leader and the Head of Finance following October Cabinet decisions

**Cost:** Tender return cost for the Energy Centre installation has come back over budget, an increase in the budget was agreed by Cabinet subject to review by the Deputy Leader and Head of Finance.

**Delivery:** The revised timetable for the project has yet to be determined

**Approved Budget:** External funding contribution £3.7m | CBC funding contribution £0.7m | Total £4.4m

### **Council House New Build**

**Timing:** There are delays on the materials, however the site is progressing.

**Cost:** The project is currently running above the contract sum. However, the contractors have said they will do everything they can to design the project within budget.

**Delivery:** The sites are all being delivered to the original brief and outcomes expected. 40 units are currently under construction (Military Road and Elfreda House).

**Approved Budget:** External funding contribution £0 | CBC funding contribution £2.9m | Total £2.9m

### **Stanway Community Centre**

**Timing:** Project has been delayed due to retendering and high costs. Project completion is anticipated for July 2022.

**Cost:** Anticipated overspend on the construction costs but will be mitigated by S106 contributions.

**Delivery:** Lease agreement on the building is dependent on pedestrian access works discussions are underway.

**Approved Budget:** External funding contribution £1.9m | CBC funding contribution £0m | Total £1.9m

### **Facility Loan to Colchester Amphora Energy Company**

**Timing:** See comments on the Heat Network.

**Cost:** See comments on the Heat Network.

**Delivery:** See comments on the Heat Network.

**Approved Budget:** External funding contribution £0m | CBC funding contribution £2.5m | Total £2.5m

### **St Marks Community Centre**

**Timing:** No delays experienced or expected.

**Cost:** Anticipated overspend identified, additional funding to be requested.

**Delivery:** Project progressing well with no obstructions.

**Approved Budget:** External funding contribution £0m | CBC funding contribution £1.5m | Total £1.5m

### **CNGS Infrastructure**

**Timing:** Tender and works to progress for anticipated completion of Summer 22.

**Cost:** Current costs unknown pending the tender review and returns.

**Delivery:** Tender and works to progress for anticipated completion of Summer 22.

**Approved Budget:** External funding contribution £0 | CBC funding contribution £1.6m | Total £1.6m

### **Shrub End Depot**

**Timing:** Project on track to revised timeline.

**Cost:** After thorough costings the project is higher than budgeted in the Capital Programme.

**Delivery:** Project is progressing well.

**Approved Budget:** External funding contribution £0 | CBC funding contribution £1m | Total £1m

### **LFFN Broadband**

**Timing:** Meeting between contractors and Essex Highways scheduled for early November to agree timescales for completion of last element of civil works.

**Cost:** Additional funding required to cover project management fees which cannot be claimed from the grant funder and a modest overspend on project delivery.

**Delivery:** The change to amber underscores the considerable time pressure to get the remaining network elements completed ahead of the deadline. However, it is still envisaged that the project will be completed as planned.

**Approved Budget:** External funding contribution £3.4m | CBC funding contribution £0.2m | Total £3.6m

#### **Colchester Northern Gateway – The Walk**

**Timing:** Practical Completion was extended to October 2021 due to issues with supply and demand in the construction industry.

**Cost:** Contributions from CAEL and CAHL due to the associated infrastructure that has been installed for these two companies are expected. A funding request has been submitted for increased costs.

**Delivery:** Project has progressed as per brief with no changes to the outcomes.

**Approved Budget:** External funding contribution £3.5m | CBC funding contribution £0 | Total £3.5m

#### **Light Fleet Replacement**

**Timing:** Delivery due January - March 2022. Increased delivery times from the pandemic and material shortages.

**Cost:** Estimated to come within budget.

**Delivery:** Ten of nineteen vehicles have now been ordered.

**Approved Budget:** External funding contribution £0 | CBC funding contribution £0.7m | Total £0.7m

#### **Rowan House Ventilation System**

**Timing:** Uncertain when project will go out to tender.

**Cost:** Pre-tender estimate in excess of Salix grant funding estimate.

**Delivery:** HVAC works package now delayed along with Redevelopment Project.

**Approved Budget:** External funding contribution £0.5m | CBC funding contribution £0m | Total £0.5m

#### **Rowan House Regeneration**

**Timing:** There are likely timescale implications and key milestones will be reviewed following a decision on costs/options.

**Cost:** Pre-tender cost estimates significantly higher than expected for HVAC works and other refurbishment works.

**Delivery:** Review of costs/options currently underway.

**Approved Budget:** External funding contribution £0 | CBC funding contribution £1.3m | Total £1.3m

#### **Fleet Upgrade Caged Tippers**

**Timing:** Delivery due early part of the new financial year 2022. Increased delivery times from the pandemic and material shortages.

**Cost:** Total cost risen due to material shortages and increased material prices.

**Delivery:** Nineteen vehicles ordered.

**Approved Budget:** External funding contribution £0m | CBC funding contribution £0.5m | Total £0.5m

#### **CNGS Sports Park**

**Timing:** Defect repairs are still being undertaken to both the Sports Hub and Rugby Club Building.

**Cost:** Costs are on target.

**Delivery:** Defect repairs are being undertaken. Waiting for Archery to move onto the site.

**Approved Budget:** External funding contribution £4.5m | CBC funding contribution £24.3m | Total £28.8m

### **CNGS Detailed Planning**

**Timing:** Planning Application (Hybrid) has been approved although this was significantly delayed.

**Cost:** All costs are on target.

**Delivery:** Works are on progress to allow a Summer 2022 start.

**Approved Budget:** External funding contribution £0.4m | CBC funding contribution £1.1m | Total £1.5m

### **Private Sector Renewals Loans and Grants**

**Timing:** Older applications are progressing. The team is reviewing and reassessing applications where required, balancing cases against newer applications.

**Cost:** Older applications are progressing. The team is reviewing and reassessing applications where required, balancing cases against newer applications.

**Delivery:** Older applications are progressing. The team is reviewing and reassessing applications where required, balancing cases against newer applications.

**Approved Budget:** External funding contribution £0 | CBC funding contribution £0.4m | Total £0.4m

### **Mercury Phase 2**

**Timing:** Project has completed.

**Cost:** Waiting for decisions from grant funders.

**Delivery:** Project has completed.

**Approved Budget:** External funding contribution £7.8m | CBC funding contribution £1.5m | Total £9.3m

### **CNG Wastewater Improvements Pumping Station**

**Timing:** This project must be complete before the first homes of the CNGS Housing development are occupied.

**Cost:** Final costs are currently unknown.

**Delivery:** Waiting for survey results, if the report does not provide full clarity of existing system, users and required upgrades, we will approach a different Drainage Engineer with more resources to resolve these points. The intention is to appoint a Drainage Engineer on a Design & Build contract to complete the required upgrades.

**Approved Budget:** External funding contribution £0 | CBC funding contribution £0.3m | Total £0.3m

### Rowan House EV Charging Points

**Timing:** UKPN works dependant on groundworks being completed.

**Cost:** Currently on budget however officers await costs for groundworks.

**Delivery:** Timelines affected due to vehicle delivery dates and the Rowan House project.

**Approved Budget:** External funding contribution £0m | CBC funding contribution £0.1m | Total £0.1m

### Walls

**Timing:** Weather window within which works can be undertaken will now be missed due to withdrawal of first contractor. Works therefore to be held until spring 2022.

**Cost:** Tenders returned within budget, although delay with commencement of works may increase costs if second contractor will not agree to hold tender sum.

**Delivery:** Delay due to first contractor withdrawing their tender means that works will now be held until the spring.

**Approved Budget:** External funding contribution £0 | CBC funding contribution £0.1m | Total £0.1m

## RAG Status Definition

Status	Definition	Action
Red	There are significant problems with the project and the project is not meeting expectations to date. The project requires corrective action to meet business objectives. The problem cannot be handled solely by the project manager.	The matter should be formally escalated to the project board. A remedial action plan to be implemented, including reviewing the frequency of progress reports.
Amber	Not meeting the expectations to date. There are mitigating circumstances in most cases and improvement is likely but risks are being flagged.	The project sponsor and owner must have early sight of the circumstances. All stakeholders are to be informed. Resolution options are to be investigated.
Green	Meeting expectations to date.	No action required.





## Governance and Audit Committee

Item  
**10**

23 November 2021

Report of	<b>Monitoring Officer</b>	Author	<b>Andrew Weavers</b>
Title	<b>Review of the Council's Ethical Governance Policies</b>		<b>282213</b>
<b>Wards affected</b>	Not applicable		

### 1. Executive Summary

- 1.1 This report requests the Committee to review the Council's updated Ethical Governance policies. These are the key policies which set out the standards of conduct and integrity that the Council expects of councillors, staff, partners, suppliers and customers when conducting Council business. They contain procedures for dealing with breaches of the policies and processes to be followed.
- 1.2 The report also requests the Committee to recommend to Full Council to include the updated policies in the Policy Framework which comprises all of the Authority's key policies.

### 2. Recommended Decision

- 2.1 To recommend to Full Council that it adopts the statement of intent in relation to ethical governance.
- 2.2 To review the following revised policies:
  - Anti-Fraud and Corruption Policy
  - Whistleblowing Policy
  - Anti-Money Laundering Policy
  - Covert Surveillance Policy
  - Colchester Borough Council Social Media RIPA Policy
  - Data Protection Policy
  - Acceptable Use Policy
  - Information Security Policy
  - Retention Policy
  - Income and Debt Management Policy

and to recommend to Full Council that they be approved for inclusion in the Council's Policy Framework.

### 3. Background

- 3.1 The Council is committed to maintaining the highest standards of governance including the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly, openly and accountably in order to protect public safety and public money.
- 3.2 A varied range of policies and procedures form the Corporate Governance framework and a selection of these relate to Ethical Governance - those specifically regarding conduct and integrity.

3.3 The Ethical Governance policies set out the standards of conduct and integrity that it expects from staff, elected members, suppliers, partners, volunteers and the public. Breaches of the policies will be pursued, and procedures have been introduced to enable any person to raise genuine concerns they may have about the conduct of anybody acting for or on behalf of the Council.

3.4 At its meeting on 3 December 2020 Full Council adopted a statement of intent in relation to both Ethical and Corporate Governance which gave a high organisational commitment to zero tolerance of fraud, corruption and bribery. It is appropriate following the change of Administration and Leader to refresh the statement of intent which is attached at Appendix 1. The Committee is recommended to refer this to Full Council for adoption.

#### 4. Review of Ethical Governance Policies

4.1 The Anti-Fraud and Corruption, Whistleblowing, Anti-Money Laundering, Covert Surveillance, Information Security, Data Protection, Acceptable Use, Data Retention and Income and Debt policies were last reviewed by this Committee at its meeting on 24 November 2020. The Ethical Governance policies were subsequently adopted as part of the Council's Policy Framework by Full Council.

The following table indicates the number of times a policy was invoked in the past year and where appropriate whether it was effective.

Policy	No. of times invoked during 2017/18	No. of times invoked during 2018/19	No. of times invoked during 2019/20	No. of times invoked during 2020/21	Whether procedures effective
Anti-Fraud and Corruption	None	None	None	None	n/a
Whistleblowing	None	1	None	None	n/a
Anti-Money Laundering	None	None	None	None	n/a
Covert Surveillance	None	None	None	None	n/a
Information Security	None	None	None	None	n/a
Data Protection	None	None	None	None	n/a
Acceptable Use	-	-	None	None	n/a
Data Retention	-	-	None	None	n/a

4.2 The Anti-Fraud and Corruption, Whistleblowing, Anti-Money Laundering, Covert Surveillance, Information Security, Data Protection, Acceptable Use and Data Retention policies have all been reviewed to ensure that they remain fit for purpose and no changes are proposed to these policies which are appended to this report.

4.3 The Committee at its meeting on 7 September 2021 considered and agreed a new Processing of Special Category & Criminal Convictions Personal Data Policy. This was subsequently endorsed by Full Council at its meeting on 20 October 2021 and was included as part of the Council's Policy Framework. This Policy will be reviewed annually going forward as part of the annual review of ethical governance policies.

4.4 The Monitoring Officer writes an annually to both Members and Officers reminding them of their obligations regarding the Anti-Fraud and Corruption and Whistleblowing policies. Councillors have recently received updated data protection and cyber security training from the Council's IT team.

4.5 The Income & Debt Management Policy has been reviewed and there are no proposed changes for this year. The processes are still relevant and meet legislative requirements, whilst supporting strong collection rates.

- 4.6 During the last full financial year, the Council achieved high collection rates for Council Tax despite the impacts of Covid-19, this has continued into 2021/22. Business rates collection has been more significantly impacted, with those not supported through Government grants or relief still struggling to pay. The Council has worked to support those struggling whilst encouraging flexible arrangements to maintain some payments from those businesses most affected. It is anticipated that the ongoing effects of Covid-19 will impact on business rates collection through to 2022/23.
- 4.7 The Council continues to improve processes, making payment options simple for residents and businesses and encouraging customers to contact as soon as possible if they are suffering financial difficulties.

## **5. Strategic Plan References**

- 5.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan priorities to set out the direction and future potential for our Borough.

## **6. Publicity Considerations**

- 6.1 The Council's ethical governance polices will be published on the Council's website.

## **7. Financial, Equality, Diversity and Human Rights, Consultation, Health, Wellbeing and Community Safety, Health and Safety, Risk Management and Environmental and Sustainability Implications**

- 7.1 None.



## Ethical Governance Statement 2021/22

Appendix 1

Colchester Borough Council will not tolerate breaches of its ethical governance policies.

The Council is committed to maintaining the highest standards of governance including the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly, openly and accountably so as to protect public safety and public money.

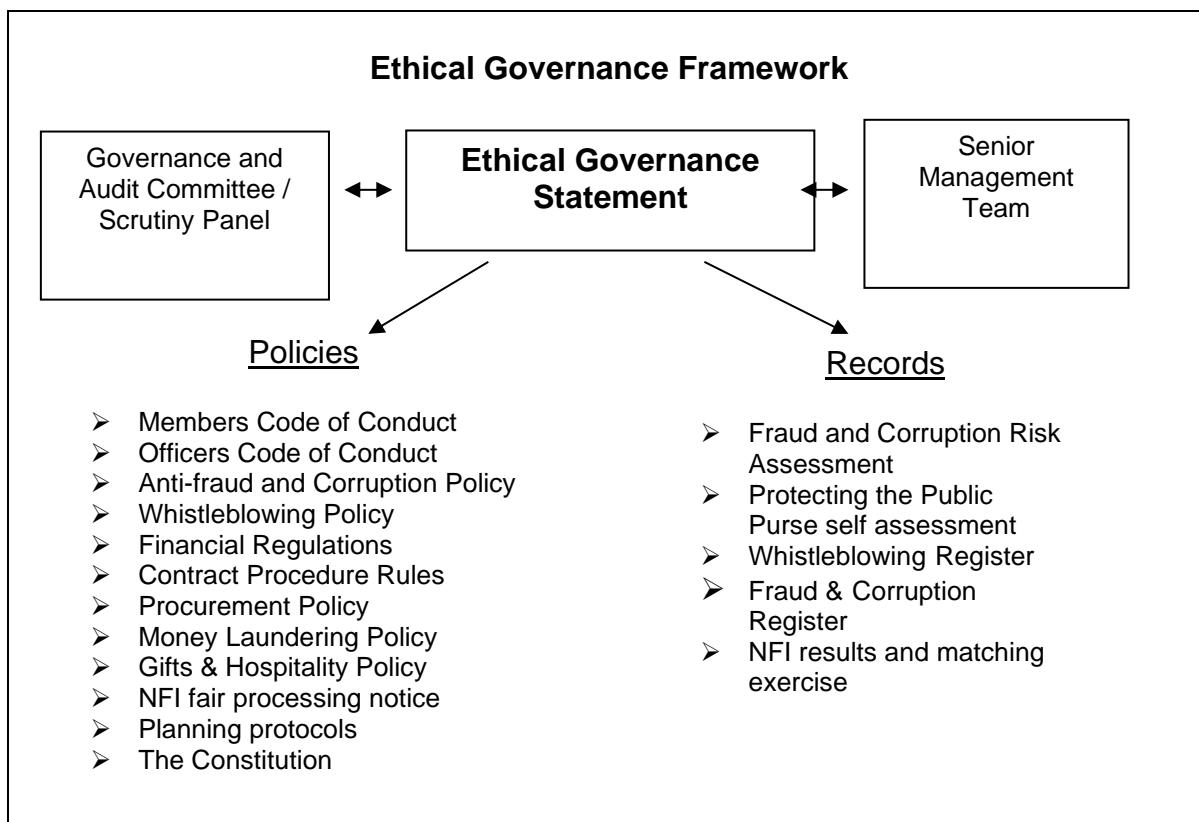
The Council expects the highest standards of conduct and integrity from all that have dealings with it including staff, elected members, suppliers, partners, volunteers and the public. Therefore, policies have been put in place to outline the standards required and procedures have been introduced to enable any person to raise genuine concerns they may have about the conduct of anybody acting for or on behalf of the Council.

The Ethical Governance policies form part of the Council's overall Corporate Governance framework and details of all the policies have been published on the Council's website at [www.colchester.gov.uk](http://www.colchester.gov.uk).

We will take all reasonable steps to ensure that concerns are investigated, and appropriate action taken where necessary. There will be no distinction made in investigation between cases that generate financial benefits and those that do not.

Paul Dundas  
Leader of the Council

Adrian Pritchard  
Chief Executive





# Anti-Fraud and Corruption Policy 2021/22

A guide to the Council's approach to preventing fraud and corruption and managing any suspected cases

November 2021

# Contents

# Page

1.0	INTRODUCTION	1
2.0	OVERVIEW	1
3.0	CULTURE	2
4.0	RESPONSIBILITIES AND PREVENTION	3
4.1	Responsibilities of Elected Members	3
4.2	Responsibilities of the Monitoring Officer	3
4.3	Responsibilities of the Section 151 Officer	3
4.4	Responsibilities of the Senior Management Team	4
4.5	Responsibilities of Employees	4
4.6	Role of Internal Audit	4
4.7	Role of the Benefits Investigation	5
4.8	Role of the Corporate Governance Team	5
4.9	Role of the External Auditors	5
4.10	Role of the Public	5
4.11	Conflicts of Interest	5
4.12	Official Guidance	5
5.0	DETECTION AND INVESTIGATION	6
5.1	Disciplinary Action	6
5.2	Prosecution	6
5.3	Publicity	6
6.0	AWARENESS AND MONITORING	7

## ANTI-FRAUD AND CORRUPTION POLICY

### 1.0 INTRODUCTION

Colchester Borough Council, like every Local Authority, has a duty to ensure that it safeguards the public money that it is responsible for.

The Council expects the highest standards of conduct and integrity from all that have dealings with it including staff, members, contractors, volunteers and the public. It is committed to the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly and to the highest possible standard of openness and accountability so as to protect public safety and public money.

All suspicions or concerns of fraudulent or corrupt practise will be investigated. There will be no distinction made in investigation and action between cases that generate financial benefits and those that do not. Any investigations will not compromise the Council's commitment to Equal Opportunities or the requirements of the Human Rights Act or any other relevant statutory provision.

This policy has been created with due regard to the CIPFA better Governance Forum's Red Book 2 'Managing the Risk of Fraud', the CIPFA 2014 Code of Practice on Managing the Risk of Fraud and Corruption and the Audit Commission publication 'Protecting the Public Purse'.

### 2.0 OVERVIEW

This policy provides an overview of the measures designed to combat any attempted fraudulent or corrupt act. For ease of understanding it is separated into four areas as below:

- Culture
- Responsibilities and Prevention
- Detection and Investigation
- Awareness and Monitoring.

Fraud and corruption are defined as:

Fraud – "the intentional distortion of financial statements or other records by persons internal or external to the Council, which is carried out to conceal the misappropriation of assets or otherwise for gain".

In addition, fraud can also be defined as "the intentional distortion of financial statements or other records by persons internal or external to the authority, which is carried out to mislead or misrepresent".

Corruption – "the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person".

The Council also abides by the Bribery Act 2010 which covers, amongst other things, the offences of bribing another person, of allowing to be bribed and organisational responsibility. Such offences include:

- The offer, promise or giving of financial or other advantage to another person in return for the person improperly performing a relevant function or activity
- Requesting, agreeing to receive or accepting a financial or other advantage intending that, in consequence a relevant function or activity should be performed improperly.
- Commercial organisation responsibility for a person, associated with the organisation, bribing another person for the purpose of obtaining or retaining business for the organisation.

In addition, this policy also covers “the failure to disclose an interest in order to gain financial or other pecuniary benefit.”

### **3.0 CULTURE**

The prevention/detection of fraud/corruption and the protection of public money are responsibilities of everyone, both internal and external to the organisation. The Council's elected members and employees play an important role in creating and maintaining this culture. They are positively encouraged to raise concerns regarding fraud and corruption, immaterial of seniority, rank or status, in the knowledge that such concerns will, wherever possible, be treated in confidence. The public also has a role to play in this process and should inform the Council if they feel that fraud/corruption may have occurred.

Concerns must be raised when members, employees or the public reasonably believe that one or more of the following has occurred, is in the process of occurring or is likely to occur:

- A criminal offence
- A failure to comply with a statutory or legal obligation
- Improper or unauthorised use of public or other official funds
- A miscarriage of justice
- Maladministration, misconduct or malpractice
- Endangering an individual's health and/or safety
- Damage to the environment
- Deliberate concealment of any of the above.

The Council will ensure that any allegations received in any way, including by anonymous letter or telephone call, will be taken seriously and investigated in an appropriate manner. The Council has a whistle blowing policy that sets out the approach to these types of allegations in more detail.

The Council will deal firmly with those who defraud the Council or who are corrupt, or where there has been financial malpractice. There is, of course, a need to ensure that any investigation process is not misused and, therefore, any abuse (such as employees/members raising malicious allegations) may be dealt with as a disciplinary matter (employees) or through Group procedures (Members).

When fraud or corruption has occurred due to a breakdown in the Council's systems or procedures, Directors will ensure that appropriate improvements in systems of control are implemented in order to prevent a re-occurrence.

## **4.0 RESPONSIBILITIES AND PREVENTION**

### **4.1 Responsibilities of Elected Members**

As elected representatives, all members of the Council have a duty to protect the Council and public money from any acts of fraud and corruption. This is done through existing practice, compliance with the Council's Members' Code of Conduct, the Council's Constitution including Financial Regulations and Standing Orders and relevant legislation. Conduct and ethical matters are specifically brought to the attention of members during induction and include the declaration and registration of interests. Officers advise members of new legislative or procedural requirements.

### **4.2 Responsibilities of the Monitoring Officer**

The Monitoring Officer is responsible for ensuring that all decisions made by the Council are within the law. The Monitoring Officer's key role is to promote and maintain high standards of conduct throughout the Council by developing, enforcing and reporting appropriate governance arrangements including codes of conduct and other standards policies.

All suspected instances of fraud or corruption (apart from benefit claim issues) should be reported to the Monitoring Officer.

### **4.3 Responsibilities of the Section 151 Officer**

The Head of Finance has been designated with the statutory responsibilities of the Finance Director as defined by s151 of the Local Government Act 1972. These responsibilities outline that every local authority in England and Wales should: "make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has the responsibility or the administration of those affairs"

'Proper administration' encompasses all aspects of local authority financial management including:

- Compliance with the statutory requirements for accounting and internal audit;
- Managing the financial affairs of the Council
- The proper exercise of a wide range of delegated powers both formal and informal;
- The recognition of the fiduciary responsibility owed to local tax payers.

Under these statutory responsibilities the Section 151 Officer contributes to the anti-fraud and corruption framework of the Council.

#### **4.4 Responsibilities of the Senior Management Team**

Managers at all levels are responsible for the communication and implementation of this policy. They are also responsible for ensuring that their employees are aware of the Council's personnel policies and procedures, the Council's Financial Regulations and Standing Orders and that the requirements of each are being met. Managers are expected to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. Special arrangements may be applied from time to time for example where employees are responsible for cash handling or are in charge of financial systems and systems that generate payments, for example payroll or the Revenues and Benefits computer system. These procedures will be supported by relevant training.

The Council recognises that a key preventative measure in dealing with fraud and corruption is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts and agency staff. The Council's formal recruitment procedure contains appropriate safeguards in the form of written references, the verification of qualifications held and employment history. Disclosure and Barring Service (DBS) checks are undertaken for employees working with or who may have contact with children or vulnerable adults.

#### **4.5 Responsibilities of Employees**

Each employee is governed in their work by the Council's Standing Orders and Financial Regulations, and other policies on conduct and IT usage. Included in the Council policies are guidelines on Gifts and Hospitality, and codes of conduct associated with professional and personal conduct and conflict of interest. These are issued to all employees when they join the Council. In addition, employees are responsible for ensuring that they follow any instructions given to them, particularly in relation to the safekeeping of the assets of the Council. Employees are expected always to be aware of the possibility that fraud, corruption and theft may exist in the workplace and be able to share their concerns with management.

#### **4.6 Role of Internal Audit**

Internal Audit plays a preventative role in trying to ensure that systems and procedures are in place to prevent and deter fraud and corruption. Internal Audit may be requested to investigate cases of suspected financial irregularity, fraud or corruption, except Benefit Fraud investigations, in accordance with agreed procedures. Within the Financial Regulations in the Constitution, representatives of Internal Audit are empowered to:

- enter at all reasonable times any Council premises or land
- have access to all records, documentation and correspondence relating to any financial and other transactions as considered necessary
- have access to records belonging to third parties such as contractors when required
- require and receive such explanations as are regarded necessary concerning any matter under examination

- require any employee of the Council to account for cash, stores or any other Council property under their control or possession  
Internal Audit liaises with management to recommend changes in procedures to reduce risks and prevent losses to the Authority.

#### **4.7 Role of the Benefits Investigation**

Any allegations of benefit fraud are to be referred to the Department of Work and Pensions for investigation.

#### **4.8 Role of the Corporate Governance Team**

The team consists of various officers whose roles include governance issues and the objective is to promote and embed a governance culture throughout the organisation by implementing policies, reviewing issues, providing training and sharing information.

#### **4.9 Role of the External Auditors**

Independent external audit is an essential safeguard of the stewardship of public money. This is currently carried out by BDO UK LLP through specific reviews that are designed to test (amongst other things) the adequacy of the Council's financial systems and arrangements for preventing and detecting fraud and corruption. It is not the external auditors' function to prevent fraud and irregularities, but the integrity of public funds is at all times a matter of general concern. External auditors are always alert to the possibility of fraud and irregularity and will act without undue delay if grounds for suspicion come to their notice. The Council contributes to the bi-annual National Fraud Initiative which is designed to cross-match customers across authorities to highlight areas where there are potential fraudulent claims.

#### **4.10 Role of the Public**

This policy, although primarily aimed at those within or associated with the Council, enables concerns raised by the public to be investigated, as appropriate, by the relevant person in a proper manner.

#### **4.11 Conflicts of Interest**

Both elected members and employees must ensure that they avoid situations where there is a potential for a conflict of interest. Such situations can arise with externalisation of services, internal tendering, planning and land issues etc. Effective role separation will ensure decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information.

#### **4.12 Official Guidance**

In addition to Financial Regulations and Standing Orders, due regard will be had to external and inspectorate recommendations.

The Council is aware of the high degree of external scrutiny of its affairs by a variety of bodies such as Government Inspection bodies, the Local Government and Social Care Ombudsman, HM Customs and Excise and the Inland Revenue. These bodies are important in highlighting any areas where improvements can be made.

## **5.0 DETECTION AND INVESTIGATION**

Internal Audit plays an important role in the detection of fraud and corruption. Included within the audit plans are reviews of system controls including financial controls and specific fraud and corruption tests, spot checks and unannounced visits.

In addition to Internal Audit, there are numerous systems and management controls in place to deter fraud and corruption, but it is often the vigilance of employees and members of the public that aids detection. In some cases, frauds are discovered by chance or "tip-off" and the Council will ensure that such information is properly dealt with within its whistleblowing policy.

Detailed guidance on the investigation process is available separately.

### **5.1 Disciplinary Action**

The Council's Disciplinary Procedures will be used to facilitate a thorough investigation of any allegations of improper behaviour by employees. Theft, fraud and corruption are serious offences which may constitute gross misconduct against the Council and employees will face disciplinary action if there is evidence that they have been involved in these activities, including Benefit fraud. Disciplinary action will be taken in addition to, or instead of, criminal proceedings depending on the circumstances of each individual case.

Members will face appropriate action under this policy if they are found to have been involved in theft, fraud and corruption against the Council. Action will be taken in addition to, or instead of criminal proceedings, depending on the circumstances of each individual case but in a consistent manner. If the matter is a breach of the Members' Code of Conduct, then it will be dealt with in accordance with the Arrangements agreed by the Council in accordance with the Localism Act 2011.

### **5.2 Prosecution**

In terms of proceedings the Council will endeavour to take action in relevant cases to deter others from committing offences against the Council.

### **5.3 Publicity**

The Council will optimise the publicity opportunities associated with anti-fraud and corruption activity within the Council. Wherever possible, where the Council has suffered a financial loss action will be taken to pursue the recovery of the loss. All anti-fraud and corruption activities, including the update of this policy, will be publicised.

## **6.0 AWARENESS AND MONITORING**

The Council recognises that the continuing success of this policy and its general credibility will depend in part on the effectiveness of training and awareness for members and employees and will therefore take appropriate action to raise awareness levels.

The Monitoring Officer will provide an annual report to senior management and members outlining investigations undertaken during the year.

This policy and associated procedures will be reviewed at least annually and will be reported to senior management and the Governance and Audit Committee.





# Whistleblowing Policy

## 2021/22

A guide for employees and Councillors  
on how to raise concerns about conduct  
within the Council

**November 2021**

Contents	Page
1.0 Introduction	1
2.0 Aims and Scope of the Whistleblowing Policy	1
3.0 Safeguards	2
3.1 Harassment or Victimisation	2
3.2 Confidentiality	3
3.3 Anonymous Allegations	3
3.4 Untrue Allegations	3
4.0 How to raise a concern	3
5.0 How the Council will respond	4
6.0 The Responsible Officer	5
7.0 How the matter can be taken further	5
8.0 Questions regarding this policy	6
9.0 Review	6

## WHISTLEBLOWING POLICY

### 1.0 Introduction

Employees or Councillors are often the first to realise that there may be some form of inappropriate conduct within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of misconduct, but this can have serious consequences if wrongdoing goes undetected.

The Council is committed to the highest possible standards of openness, probity, accountability and honesty. In line with that commitment we expect employees, councillors and others that we deal with who have serious concerns, about any aspect of the Council's work, to come forward and voice those concerns.

This policy document makes it clear that employees and councillors can do so without fear of victimisation, subsequent discrimination or disadvantage. This Whistleblowing Policy and Procedure is intended to encourage and enable employees and councillors to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. With the exception of employment related grievances, this policy will apply to any act of Whistleblowing, as defined by the charity Public Concern at Work to mean; "A disclosure of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, be it of the employer or of its employees."

This policy and procedure applies to all employees, councillors, partners, volunteers and contractors. It also covers suppliers and members of the public.

These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures. Officers are responsible for making customers aware of the existence of these procedures.

This policy has been discussed with the relevant trade unions and has their support.

### 2.0 Aims and Scope of the Whistleblowing Policy

This policy aims to:

- Encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice without fear of recrimination.
- Provide avenues for you to raise those concerns and receive feedback on any action taken.
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.

- Reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.
- Advise you of the support that the Council will provide if you raise concerns in good faith.

There are existing procedures in place to enable you to lodge a grievance relating to your own employment. This Whistleblowing Policy and Procedure is intended to cover major concerns that fall outside the scope of other procedures. These include:

- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks, including risks to the public as well as other employees
- damages to the environment
- the unauthorised use of public funds
- possible fraud and corruption
- other unethical conduct
- unacceptable business risks.

This concern may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- is against the Council's Procedure Rules and policies; or
- falls below established standards of practice; or
- amounts to improper conduct.

### **3.0 Safeguards**

#### **3.1 Harassment or Victimation**

The Council is committed to good practice and high standards and wants to be supportive of employees and councillors.

The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to the Council and those for whom you are providing a service. In these situations, you are a witness and not a complainant.

The Council will not tolerate the harassment or victimisation of any person who raises a concern. The Council's disciplinary procedures will be used against any employee who is found to be harassing or victimising the person raising the concern and such behaviour by a councillor will be reported under the Members' Code of Conduct.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you if you are an employee.

### **3.2 Confidentiality**

All concerns will be treated in confidence and the Council will do its best to protect your identity if you do not want your name to be disclosed. If investigation of a concern discloses a situation that is sufficiently serious to warrant disciplinary action or police involvement, then your evidence may be important. Your name will not however be released as a possible witness until the reason for its disclosure, at this stage, has been fully discussed with you.

### **3.3 Anonymous Allegations**

This policy encourages you to put your name to your allegation whenever possible.

Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.

In exercising this discretion, the factors to be taken into account would include the:

- seriousness of the issues raised;
- credibility of the concern; and
- likelihood of confirming the allegation from attributable sources.

### **3.4 Untrue Allegations**

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If however, you make an allegation maliciously or for personal gain, disciplinary action may be taken against you, or if you are a councillor a complaint may be made under the Members' Code of Conduct.

## **4.0 How to raise a concern**

You should normally raise concerns with the Monitoring Officer or the Section 151 Officer. However, if your concern relates to one of these officers you should raise your concerns with the Chief Executive.

Concerns may be raised verbally or in writing. Employees or councillors who wish to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates); and
- the reason why you are particularly concerned about the situation.

The earlier you express the concern the easier it is to take action.

Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

Advice and guidance on how matters of concern may be pursued can be obtained from:

Chief Executive, Adrian Pritchard ☎ 282211  
Monitoring Officer, Andrew Weavers ☎ 282213  
Section 151 Officer, Paul Cook ☎ 505861  
Deputy Monitoring Officer, Hayley McGrath ☎ 508902  
Deputy Monitoring Officer, Julian Wilkins ☎ 282257.

You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

If you are an employee you may invite your trade union or a friend to be present during any meetings or interviews in connection with the concerns you have raised. If you are a councillor you may be accompanied by your group leader.

The Council has a dedicated email address [whistleblowing@colchester.gov.uk](mailto:whistleblowing@colchester.gov.uk)

Further guidance on protection for anyone raising a concern can be found in the Public Interests Disclosure Act 1998.

## 5.0 How the Council will respond

The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as rejecting them.

Where appropriate, the matters raised may be:

- investigated by management, Internal Audit, or through the disciplinary process
- referred to the police
- referred to the Council's external auditor
- the subject of an independent inquiry.

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which the Council will have in mind, is the public interest.

Some concerns may be resolved by agreed action without the need for investigation.

Within **five** working days of a concern being raised, one of the named Officers will write to you:

- acknowledging that the concern has been received
- indicating how it is proposed to deal with the matter
- giving an estimate of how long it will take to provide a final response

- informing you whether any initial enquiries have been made
- supplying you with information on staff support mechanisms, and
- informing you whether further investigations will take place and if not, why not.

The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, the Council will seek further information from you.

Where any meeting is arranged, off-site where appropriate, if you so wish, you can be accompanied by a union or professional association representative or a friend, or the group leader if you are a councillor.

The Council will take steps to minimise any difficulties, which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure and will help you with the preparation of statements.

The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigation.

## **6.0 The Responsible Officer**

The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will provide an annual report on the operation of the policy to the Governance and Audit Committee.

## **7.0 How the matter can be taken further**

This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- (a) Citizens Advice Bureau
- (b) relevant professional bodies or regulatory organisations
- (c) the police
- (d) Local Government and Social Care Ombudsman
- (e) the Council's Governance and Audit Committee.

If you are considering taking the matter outside of the Council, you should ensure that you are entitled to do so and that you do not disclose confidential information.

An independent charity, Protect, can offer independent and confidential advice. Protect can be contacted via their advice line on  020 3117 2520 or

their website: <https://protect-advice.org.uk>

## **8.0 Questions regarding this policy**

Any questions should, in the first instance, be referred to the Monitoring Officer.

## **9.0 Review**

This policy will be reviewed annually.



# Anti-Money Laundering Policy 2021/22

A guide to the Council's anti-money laundering safeguards and reporting arrangements

November 2021

# Contents

# Page

1. Introduction	1
2. Scope of the Policy	1
3. Definition of Money Laundering	1
4. Requirements of the Money Laundering Legislation	2
5. The Money Laundering Reporting Officer (MLRO)	2
6. Client Identification Procedures	2
7. Reporting Procedure for Suspicions of Money Laundering	2
8. Consideration of the disclosure by the MLRO	4
9. Training	5
10. Conclusion	5
11. Review	5

## **ANTI-MONEY LAUNDERING POLICY**

### **1. Introduction**

Although local authorities are not directly covered by the requirements of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, guidance from CIPFA indicates that they should comply with the underlying spirit of the legislation and regulations.

Colchester Borough Council is committed to the highest possible standards of conduct and has, therefore, put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

### **2. Scope of the Policy**

This policy applies to all employees, whether permanent or temporary, and Members of the Council.

Its aim is to enable employees and Members to respond to a concern they have in the course of their dealings for the Council. Individuals who have a concern relating to a matter outside work should contact the Police.

### **3. Definition of Money Laundering**

Money laundering describes offences involving the integration of the proceeds of crime, or terrorist funds, into the mainstream economy. Such offences are defined under the Proceeds of Crime Act 2002 as the following 'prohibited acts':

- Concealing, disguising, converting, transferring or removing criminal property from the UK
- Becoming involved in an arrangement which an individual knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- Acquiring, using or possessing criminal property
- Doing something that might prejudice an investigation e.g. falsifying a document
- Failure to disclose one of the offences listed in a) to c) above, where there are reasonable grounds for knowledge or suspicion
- Tipping off a person(s) who is or is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation.

Provided the Council does not undertake activities regulated under the Financial Services and Markets Act 2000, the offences of failure to disclose and tipping off do not apply. However, the Council and its employees and Members remain subject to the remainder of the offences and the full provisions of the Terrorism Act 2000.

The Terrorism Act 2000 made it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism or resulting from acts of terrorism.

Although the term 'money laundering' is generally used to describe the activities of organised crime, for most people it will involve a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

Potentially very heavy penalties (unlimited fines and imprisonment up to fourteen years) can be handed down to those who are convicted of one of the offences above.

## **4. Requirements of the Money Laundering Legislation**

The main requirements of the legislation are:

- To appoint a money laundering reporting officer
- Maintain client identification procedures in certain circumstances
- Implement a procedure to enable the reporting of suspicions of money laundering
- Maintain record keeping procedures.

## **5. The Money Laundering Reporting Officer (MLRO)**

The Council has designated the Monitoring Officer as the Money Laundering Reporting Officer (MLRO). He can be contacted at [andrew.weavers@colchester.gov.uk](mailto:andrew.weavers@colchester.gov.uk) or on 01206 282213.

In the absence of the MLRO or in instances where it is suspected that the MLRO themselves are involved in suspicious transactions, concerns should be raised with the Council's Section 151 Officer, Paul Cook.

## **6. Client Identification Procedures**

Although not a legal requirement, the Council has developed formal client identification procedures which must be followed when Council land or property is being sold. These procedures require individuals and if appropriate, companies to provide proof of identity and current address.

If satisfactory evidence is not obtained at the outset of a matter, then the transaction must not be progressed and a disclosure report, available on the Council's intranet (COLIN), must be submitted to the Money Laundering Reporting Officer.

All personal data collected must be kept in compliance with the Data Protection Act.

## **7. Reporting Procedure for Suspicions of Money Laundering**

Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the Act, you must disclose this as soon as practicable to the MLRO. The disclosure should be within "hours" of the information coming to your attention, not weeks or months later.

Your disclosure should be made to the MLRO using the disclosure report, attached at Appendix 1 to this policy. The report must include as much detail as possible including

- Full details of the people involved
- Full details of the nature of their/your involvement.

- The types of money laundering activity involved
- The dates of such activities
- Whether the transactions have happened, are ongoing or are imminent
- Where they took place
- How they were undertaken
- The (likely) amount of money/assets involved
- Why, exactly, you are suspicious.

Along with any other available information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable him to prepare his report to the National Crime Agency (NCA), where appropriate. You should also enclose copies of any relevant supporting documentation.

If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327 – 329 of the Act, then your report must include all relevant details, as you will need consent from the NCA, via the MLRO, to take any further part in the transaction - this is the case even if the client gives instructions for the matter to proceed before such consent is given. You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline.

Once you have reported the matter to the MLRO you must follow any given directions. You must NOT make any further enquiries into the matter yourself: any necessary investigation will be undertaken by the NCA. Simply report your suspicions to the MLRO who will refer the matter on to the NCA if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, even if the NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise, you may commit a criminal offence of “tipping off”.

Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

## **8. Consideration of the disclosure by the Money Laundering Reporting Officer**

Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. He should also advise you of the timescale within which he expects to respond to you.

The MLRO will consider the report and any other available internal information he thinks relevant, for example:

- reviewing other transaction patterns and volumes
- the length of any business relationship involved
- the number of any one-off transactions and linked one-off transactions

- any identification evidence held.

The MLRO will undertake such other reasonable inquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.

Once the MLRO has evaluated the disclosure report and any other relevant information, he must make a timely determination as to whether:

- there is actual or suspected money laundering taking place; or
- there are reasonable grounds to know or suspect that is the case; and
- whether he needs to seek consent from the NCA for a particular transaction to proceed.

Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless he has a reasonable excuse for non-disclosure to the NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then the MLRO must note the report accordingly; he can then immediately give his consent for any ongoing or imminent transactions to proceed.

In cases where legal professional privilege may apply, the MLRO must liaise with the Council's Section 151 Officer to decide whether there is a reasonable excuse for not reporting the matter to the NCA.

Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he shall mark the report accordingly and give his consent for any ongoing or imminent transaction(s) to proceed.

All disclosure reports referred to the MLRO and reports made by him to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

The MLRO commits a criminal offence if he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him, that another person is engaged in money laundering, and he does not disclose this as soon as practicable to the NCA.

## **9. Training**

Officers considered likely to be exposed to suspicious situations, will be made aware of these by their senior officer and provided with appropriate training.

Additionally, all employees and Members will be familiarised with the legal and regulatory requirements relating to money laundering and how they affect both the Council and themselves.

Notwithstanding the paragraphs above, it is the duty of officers and Members to report all suspicious transactions whether they have received their training or not.

## **10. Conclusion**

Given a local authority's legal position with regard to the legislative requirements governing money laundering, the Council believes that this Policy represents a proportionate response to the level of risk it faces of money laundering offences.

## **11. Review**

This policy will be reviewed annually.

CONFIDENTIAL

Appendix 1

## REPORT TO MONEY LAUNDERING REPORTING OFFICER

### RE: SUSPECTED MONEY LAUNDERING ACTIVITY

**To:** Monitoring Officer, Money Laundering Reporting Officer

**From:** ..... *[Name of employee]*

**Department:** ..... *[Post title and Service Area]*

**Ext / Tel No:** .....

#### DETAILS OF SUSPECTED OFFENCE:

**Name(s) and address(es) of person(s) involved:***[If a company / public body please include details of nature of business]***Nature, value and timing of activity involved:***[Please include full details e.g. what, where, how. Continue on a separate sheet if necessary]***Nature of suspicions regarding such activity:***[Please continue on a separate sheet if necessary]*

---

**Has any investigation been undertaken (as far as you are aware)?** *[Please tick relevant box]*

Yes  No

**If yes, please include details below:**

**Have you discussed your suspicions with anyone else?** *[Please tick relevant box]*

Yes  No

**If yes, please provide details of who the discussions took place with and explain why such discussion was necessary:**

---

**Have you consulted any supervisory body guidance re: Yes  No**   
**money laundering (e.g. the Law Society)** *[Please tick relevant box]*

**If yes, please specify below:**

**Do you feel you have a reasonable justification for not Yes  No  to  
disclosing the matter to the NCA? (e.g. are you a lawyer and wish to  
claim legal privilege?)** *[Please tick relevant box]*

**If yes, please set out full details below:**

**Are you involved in a transaction which might be a** Yes  No

**prohibited act under sections 327-329 of the Act and which requires appropriate consent from the NCA**

*[Please tick relevant box]*

**If yes, please include details below:**

**Please set out below any other information you feel is relevant:**

***Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described. To do so may constitute a tipping off offence, which carries a maximum penalty of 5 years imprisonment.***

**Signed:** .....

**Dated:** .....





# Code of Practice on Covert Surveillance 2021/22

A guide to the Council's approach to  
the Regulation of Investigatory  
Powers Act 2000

November 2021

# Contents

		Page
1.0	INTRODUCTION	1
2.0	WHAT DOES THE ACT AND THE CODE COVER?	2
2.1	Directed surveillance	2
2.2	General observations	2
2.3	Intrusive surveillance	3
2.4	Covert Human Intelligence Sources	3
3.0	AREAS OF OPERATION	4
4.0	AUTHORISATION AND AUTHORISING OFFICERS	4
5.0	CRIME THRESHOLD	5
6.0	GROUNDS FOR GRANTING AN AUTHORISATION	6
7.0	PROCEDURE FOR AUTHORISATIONS, CANCELLATIONS AND RENEWALS	6
7.1	Authorisations	6
7.2	Magistrates' Approval	7
7.3	Review	7
7.4	Renewals	7
7.5	Cancellations	8
7.6	Audit	8
8.0	MISCELLANEOUS POINTS	8
8.1	Material obtained from covert surveillance ("product")	8
8.2	CCTV	8
9.0	SOCIAL MEDIA	8
10.0	TRAINING	9
11.0	GENERAL BEST PRACTICES	9
12.0	SENIOR RESPONSIBLE OFFICER	10
13.0	COMPLAINTS	10
14.0	QUERIES ABOUT THIS CODE OF PRACTICE	10

## CODE OF PRACTICE ON COVERT SURVEILLANCE

### 1.0 INTRODUCTION

The Council enforces the law in a number of areas. As part of this enforcement there will be occasions where surveillance of individuals or property is necessary to ensure that the law is being complied with. When the Council does decide to undertake surveillance, it is important that it remains within the law which is contained in the Regulation of Investigatory Powers Act 2000 (“the Act”) as amended by the Protection of Freedoms Act 2012 and the Investigatory Powers Act 2016.

The GOV website provides an overview of the Act and procedures:

<http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/>

The Act sets out certain criteria that the Council has to comply with before it undertakes surveillance and those are also reflected in the Home Office Code of Practice on Covert Surveillance and Property Interference (“the Code of Practice”) which is available on its website:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/742041/201800802\\_CSPI\\_code.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742041/201800802_CSPI_code.pdf)

The Home Office has also issued guidance on the judicial approval process for the Regulation of Investigatory Powers (RIPA) Act 2000 and the crime threshold for directed surveillance. This is available on the Home Office website:

<http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/local-authority-ripa-guidance/local-authority-england-wales?view=Binary>

Officers will need to familiarise themselves with the contents of the Code of Practice and the Code.

The Investigatory Powers Commissioner’s Office has responsibility for oversight of investigatory powers.

<https://www.ipco.org.uk/>

The Council will comply with the Code when carrying out directed surveillance and officers should be aware of its provisions. Failure to observe the provisions of the Act may result in the protection of the Act not being available. This may mean that the evidence gathered:

- *is not admissible in court proceedings.*
- *is a breach of an individual's human rights.*

This policy sets out how Colchester Borough Council (including Colchester Borough Homes) will comply with the Act, the Code and the Code of Practice. It also clarifies the circumstances in which officers will be able to use covert surveillance and the internal requirements that will need to be observed when conducting that surveillance.

The Policy Statement should be read in conjunction with the Council's Data Protection Policy.

The Policy Statement will be made available for inspection at Council offices.

Any officer considering an application under the Act should first seek the advice of the Senior Responsible Officer in Legal Services.

## **2.0 What does the Act and the Code cover?**

The Act and the Code cover covert surveillance, which is defined in the Act as being surveillance which "*is carried out in manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place*".

### **2.1 Directed surveillance**

Local authorities can only use a form of covert surveillance called "directed surveillance". This is defined in the Act as where the surveillance is covert but not intrusive and is undertaken:

- for the purposes of a specific investigation or operation
- in such a manner as is likely to result in the obtaining of private information about a person (whether or not specifically identified for the purposes of the investigation) and
- otherwise than by way of an immediate response to events or circumstances, the nature of which is such that it would not be reasonably practicable for an authorisation under the Act to be sought.

"Private Information" in relation to a person includes any information relating to their private or family life.

Surveillance is not covert if notification has been sent to the intended subject of the surveillance. For example, in a noise nuisance case a letter notifying a subject that the noise will be monitored by officers visiting will make the surveillance overt. However, as a matter of good practice, surveillance should be considered covert if the notification to the subject is over 3 months old. All communications of this nature should be sent by Registered Post or delivered by hand.

### **2.2 General observations**

General observations by officers in the course of their duties are not covered by the Act

Directed surveillance will not include surveillance that is undertaken as an immediate response to events or circumstances which, by their nature could not have been foreseen. This will include situations where officers are out in the normal course of their duties and happen to witness an activity, for example a housing officer visiting tenants and witnessing anti-social behaviour by an individual. *In other words, where there is no systematic surveillance.*

If there is any doubt as to whether a RIPA authorisation is required, you must seek advice from the Council's Legal Services.

## 2.3 Intrusive surveillance

“Intrusive Surveillance” is surveillance that is:

- carried out in relation to anything taking place on any residential premises or in any private vehicle; and
- involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

***Intrusive Surveillance cannot be authorised by local authority officers and all officers are strictly prohibited from engaging in Intrusive Surveillance.***

## 2.4 Covert Human Intelligence Sources

The Council is also permitted to use Covert Human Intelligence Sources under the Act. A Covert Human Intelligence Source is someone who establishes or maintains a personal or other relationship for the covert purpose of helping the covert use of the relationship to obtain information. However, at the current time the Council does not consider this necessary and will not use Covert Human Intelligence Sources.

All officers are strictly prohibited from using Covert Human Intelligence Sources.

Unlike directed surveillance, which relates specifically to private information, authorisations for the use or conduct of a Covert Human Intelligence Source do not relate specifically to private information, but to the covert manipulation of a relationship to gain any information. European Court of Human Rights case law makes it clear that Article 8 of the European Convention on Human Rights includes the right to establish and develop relationships. Accordingly, any manipulation of a relationship by a public authority (e.g. one party having a covert purpose on behalf of a public authority) is likely to engage Article 8, regardless of whether or not the public authority intends to acquire private information.

Not all human source activity will meet the definition of a Covert Human Intelligence Source. For example, a source may be a public volunteer who discloses information out of professional or statutory duty or has been tasked to obtain information other than by way of a relationship.

Certain individuals will be required to provide information to public authorities or designated bodies out of professional or statutory duty. For example, employees within organisations regulated by the money laundering provisions of the Proceeds of Crime Act 2002 will be required to comply with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and report suspicious transactions. Similarly, financial officials, accountants or company administrators may have a duty to provide information that they have obtained by virtue of their position to the Serious Fraud Office.

Any such regulatory or professional disclosures should not result in these individuals meeting the definition of a Covert Human Intelligence Source, as the business or

professional relationships from which the information derives will not have been established or maintained for the covert purpose of disclosing such information.

Individuals or members of organisations (e.g. travel agents, housing associations and taxi companies) who, because of their work or role have access to personal information, may voluntarily provide information to the police on a repeated basis and need to be managed appropriately. Public authorities must keep such human sources under constant review to ensure that they are managed with an appropriate level of sensitivity and confidentiality, and to establish whether, at any given stage, they could be regarded as a Covert Human Intelligence Source.

Any officer concerned must seek urgent advice from the Senior Responsible Officer.

### **3.0 Areas of operation**

The Council has examined its functions and considers that the following areas may use directed surveillance from time to time. The following is not meant to be an exhaustive list but covers areas where directed surveillance may be necessary in the course of the Council's business.

- Neighbour nuisance and anti-social behaviour
- Protection of Council property
- Licensing enforcement
- Fraud against the Council (including benefit fraud)
- Misuse of Council property, facilities and services
- Enforcement of the planning regime
- Environmental monitoring and control
- Food Safety enforcement.
- CCTV, but more on this later (see 8.2).

However, this is subject to the crime threshold referred to at 5.0 below.

### **4.0 AUTHORISATION AND AUTHORISING OFFICERS**

If directed surveillance is proposed to be carried out, then **authorisation must be sought**.

Under the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003 as amended by the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 and the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2015, the Council considers that the following officers can authorise directed surveillance ("Authorising Officer"):

Chief Executive;  
Chief Operating Officer;  
Executive Director; and Strategic Director.

Any case involving Confidential Information must be authorised by the Chief Executive.

An Authorising Officer when being requested to authorise directed surveillance must be satisfied that the request is necessary and meets the criteria set down in the Act, the Code and the Code of Practice. An Authorising Officer must not authorise directed surveillance connected with an investigation in which they are directly involved.

Any application to extend or cancel surveillance must also be approved by an Authorising Officer.

Once any application is approved by the Authorising Officer it must be referred to Legal Services who will make an application for approval by a Magistrate.

No directed surveillance may be undertaken by the Council without the prior approval of a Magistrate.

## 5.0 CRIME THRESHOLD

The Code of Practice states that the Council:

- **can** only grant an authorisation under RIPA for the use of directed surveillance where it is investigating criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco.
- **cannot** authorise directed surveillance for the purpose of preventing disorder unless this involves a criminal offence(s) punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months' imprisonment.
- **can** authorise use of directed surveillance in more serious cases as long as the other tests are met – i.e. that it is necessary and proportionate and where prior approval from a Magistrate has been granted. Examples of cases where the offence being investigated attracts a maximum custodial sentence of six months or more could include more serious criminal damage, dangerous waste dumping and serious or serial benefit fraud.
- **can** authorise the use of directed surveillance for the purpose of preventing or detecting specified criminal offences relating to the underage sale of alcohol and tobacco where the necessity and proportionality test is met and prior approval from a Magistrate has been granted.
- **cannot** authorise the use of directed surveillance under RIPA to investigate disorder that does not involve criminal offences or to investigate low-level offences which include, for example, littering, dog control and fly-posting.

## 6.0 GROUNDS FOR GRANTING AN AUTHORISATION

An authorisation for directed surveillance may only be granted if the Authorising Officer believes that authorisation is necessary:

**for the purposes of preventing or detecting crime or of preventing disorder and it meets the crime threshold mentioned in 5.0 above.**

AND the Authorising Officer must also be satisfied and believe that the surveillance is proportionate to what it seeks to achieve.

The Code advises that following elements of proportionality should be fully considered:

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived mischief;
- explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others;
- that the activity is an appropriate use of the legislation and the only reasonable way, having considered all others, of obtaining the necessary result; and
- providing evidence of other methods considered and why they were not implemented.

Covert surveillance will only be used for one of the legitimate purposes where sufficient evidence exists to justify the surveillance and the surveillance is the least intrusive method of meeting that purpose. The surveillance itself must be a proportionate response to the issue it is seeking to address. Consideration should be given to alternative methods of resolving the situation or obtaining the evidence sought and this should be documented.

Particular attention should be paid to the effect of the surveillance on the privacy of other persons ("collateral intrusion"). Measures should be taken to avoid or minimise intrusion. Any collateral intrusion should be taken into account when an Authorising Officer is assessing proportionality.

## **7.0 PROCEDURE FOR AUTHORISATIONS, CANCELLATIONS AND RENEWALS**

### **7.1 Authorisations**

An authorisation must be granted by those persons authorised at 4 above. No other person is permitted to authorise directed surveillance.

Authorisations must be in writing on the form attached.

Authorisation cannot be given to operations after they have commenced. Failure to obtain correct authorisation may mean that evidence is not admissible in legal proceedings and may breach a subject's human rights.

The authorisation form must be kept on the relevant case papers and held securely. A copy of the authorisation must be passed to Legal Services to be held on a central file and monitored for consistency of approach of Authorising Officers and validity.

An authorisation period begins on the date and time the authorisation is approved by a magistrate and will cease to have effect (unless renewed) at the end of a period of *three months* beginning with the day on which it took effect.

## 7.2 Magistrates' Approval

Once an authorisation form has been completed Legal Services will:

- contact the Magistrates' Court to arrange for a hearing
- supply the court with a partially completed judicial application/order form
- supply the court with a copy of the authorisation and any supporting documents setting out the Council's case
- the hearing will be in private and be heard by a single Justice of the Peace.

The Justice of the Peace may decide to either:

- (i) approve the grant (or renewal) of an authorisation; or
- (ii) refuse to approve the grant (or renewal) of an authorisation.

It is preferable for the Authorising Officer also to attend the hearing to give the Bench assistance if necessary.

## 7.3 Review

Officers should, as a matter of good practice, review authorisations on a regular basis during the course of that surveillance to ensure that the authorisation still meets the criteria. If it does not, the authorisation should be cancelled using the procedure described below. A review form is attached. Officers in charge of investigations will be required to keep a record of these reviews and will submit a record of that review (normally by email) to the Monitoring Officer to be held centrally.

## 7.4 Renewals

A renewal of an authorisation can be made shortly before it expires and must be done on the form attached. The original should be kept on the case file and a copy passed to the Monitoring Officer for retention centrally. When considering whether to grant a renewal of an authorisation the Authorising Officer will consider the same factors outlined at 5 above. All renewals must be subject of an application to the Magistrates' Court in line with the procedure at 7.2 above.

## 7.5 Cancellations

The Authorising Officer who last granted or renewed the authorisation must cancel it if s/he is satisfied that the directed surveillance no longer meets the criteria for authorisation. A cancellation should be made on the form attached. The original should be retained on the case file and a copy passed to Legal Services for retention centrally.

Authorisations, renewals and cancellations are subject to monitoring on an annual basis by the Monitoring Officer as to validity under the Act and the Code.

## 7.6 Audit

At the end of each calendar year each of the Authorising Officers referred to at 4 must provide the Monitoring Officer with a list of all directed surveillance authorised by them throughout that year or provide written and signed confirmation that no such surveillance has been authorised by them

## 8.0 MISCELLANEOUS POINTS

### 8.1 Material obtained from covert surveillance ("product")

Material produced as a result of covert surveillance will be secured and transported securely. Where the product obtained is to be used in criminal proceedings the Council must comply with the provisions of the Police and Criminal Evidence Act 1984. In all other cases the treatment of product must follow Council's guidelines on access, retention and storage as set out in the Data Protection Policy.

### 8.2 CCTV

The Act and the Code will not usually apply to use of an overt CCTV system because the public are aware that the system is in use. However there are circumstances where the system is used for the purposes of a *specific operation or investigation* and in these circumstances an authorisation will be required. If the police assume operational control of the system an authorisation complying with their own procedures must be supplied to the Council. Further information in respect of these procedures can be found in the Council's CCTV Code of Practice, which has been produced in conjunction with Essex Police.

## 9.0 SOCIAL MEDIA

With the increasing use of social media there is a significant amount of information on an individual's social networking pages. This information might be relevant to an investigation being undertaken by the Council. However, unguided research into the sites of suspects could fall within the remit of RIPA and therefore require authorisation prior to it being undertaken. **You should therefore seek advice from Legal Services prior to undertaking any investigation using social networking sites.**

Where privacy settings are available but not applied the data available on Social Networking Sites may be considered 'open source' and an authorisation is not usually required. However, privacy implications may still apply even if the subject has not applied privacy settings (section 3.13 of the Code).

Repeat viewing of 'open source' sites, however, may constitute directed surveillance on a case by case basis and this should be borne in mind e.g. if someone is being monitored through, for example, their Facebook profile for a period of time and a record of the information is kept for later analysis, this is likely to require a RIPA authorisation for directed surveillance.

To avoid the potential for inadvertent or inappropriate use of social network sites in investigative and enforcement roles, Officers should be mindful of any relevant guidance

and the Council's separate Use of Social Media in Investigations Policy and Procedure attached at Annex 1 of this Policy.

## 10.0 TRAINING

The Council will ensure that the Officers who are authorising directed surveillance are appropriately trained.

All Authorising Officers and those routinely engaged in directed surveillance have been provided with this guidance, have access to the Code and the standard forms.

This Code of Practice and the standard forms are available in electronic format on the Council's intranet, COLIN.

## 11.0 GENERAL BEST PRACTICES

The following guidelines are considered as best working practices by all public authorities with regard to all applications for authorisations covered by the Code:

- applications should avoid any repetition of information;
- information contained in applications should be limited to that required by the relevant legislation;
- an application should not require the sanction of any person in the Council other than the Authorising Officer;
- where it is foreseen that other agencies will be involved in carrying out the surveillance, these agencies should be detailed in the application;
- authorisations should not generally be sought for activities already authorised following an application by the same or a different public authority.

## 12.0 SENIOR RESPONSIBLE OFFICER

The Council's nominated Senior Responsible Officer in accordance with the Code is Andrew Weavers, Monitoring Officer who will be responsible for:

- the integrity of the process in place within the Council to authorise directed surveillance
- compliance with Part II of the Act, the Code and the Code of Practice
- engagement with the Investigatory Powers Commissioner's Office and inspectors when they conduct their inspections, and where necessary, overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner
- assurance that all authorising officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by the Investigatory Powers Commissioner's Office
- supervising the maintenance of records.

## 13.0 COMMUNICATIONS DATA

**Before considering submitting an application for the acquisition of communications data, all officers must first refer the matter to the Senior Responsible Officer.**

Communications Data is the ‘who’, ‘when’ and ‘where’ of a communication, but not the ‘what’ (i.e. the content of what was said or written). Local Authorities are not permitted to intercept the content of any person’s communications.

Part 3 of the Investigatory Powers Act 2016 (IPA) replaced part 1 chapter 2 of the Act in relation to the acquisition of communications data and puts local authorities on the same standing as the police and law enforcement agencies. Previously local authorities have been limited to obtaining subscriber details (known now as “entity” data) such as the registered user of a telephone number or email address. Under the IPA, local authorities can now also obtain details of in and out call data, and cell site location. This information identifies who a criminal suspect is in communication with and whereabouts the suspect was when they made or received a call, or the location from which they were using an Internet service. This additional data is defined as “events” data.

A new threshold for which communications data “events” data can be sought has been introduced under the IPA as “applicable crime”. Defined in section 86(2A) of the IPA this means: an offence for which an adult is capable of being sentenced to one year or more in prison; any offence involving violence, resulting in substantial financial gain or involving conduct by a large group of persons in pursuit of a common goal; any offence committed by a body corporate; any offence which involves the sending of a communication or a breach of privacy; or an offence which involves, as an integral part of it, or the sending of a communication or breach of a person’s privacy.

Further guidance can be found in paragraphs 3.3 to 3.13 of the Communications Data Code of Practice published on the Home Office website:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/757850/Communications Data Code of Practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/757850/Communications%20Data%20Code%20of%20Practice.pdf)

The IPA has also removed the necessity for local authorities to seek the endorsement of a Justice of the Peace when seeking to acquire communications data. All such applications must now be processed through the National Anti-Fraud Network (“NAFN”) and will be considered for approval by the independent Office of Communication Data Authorisation (“OCDA”). The transfer of applications between local authorities, NAFN and OCDA is all conducted electronically and will therefore reduce what can be a protracted process of securing an appearance before a Magistrate or District Judge (see local authority procedures set out in paragraphs 8.1 to 8.7 of the Communications Data Code of Practice).

## 14.0 COMPLAINTS

The Act, the Code and the Code of Practice are subject to monitoring by the Investigatory Powers Commissioner’s Office. Any complaints regarding use of surveillance powers should be dealt with initially through the Council’s Complaints and Compliments Procedure. If this does not result in a satisfactory outcome for the complainant then they should be referred to:

The Investigatory Powers Tribunal  
PO Box 33220  
London SW1V 9QZ  
Tel: 0207 035 3711  
Website : [www.ipt-uk.com](http://www.ipt-uk.com)

## **15.0 QUERIES ABOUT THIS CODE OF PRACTICE**

Any queries regarding this Code of Practice should be referred to the Monitoring Officer, Andrew Weavers by email at [andrew.weavers@colchester.gov.uk](mailto:andrew.weavers@colchester.gov.uk) or  01206 282213



# Use of Social Media in Investigations Policy and Procedure 2021/22

A guide to the Council's approach to the use of social media in relation to Regulation of Investigatory Powers Act 2000 investigations.

November 2021

# **USE OF SOCIAL MEDIA IN INVESTIGATIONS**

## **POLICY AND PROCEDURES**

### **CONTENTS**

	Page
1. Introduction & Background	3
2. Regulation of Investigatory Powers Act 2000 (RIPA)	3
3. What is Meant by 'Social Media' for the purposes of this Policy	4
4. Privacy Settings	5
5. What Is Permitted Under this Policy	6
6. What Isn't Permitted Under this Policy	6
7. Capturing Evidence	7
8. Other IT Tools Available for Investigative Purposes	8
9. Retention and Destruction of Information	8
10. Policy Review	9

## **1.0 INTRODUCTION & BACKGROUND**

- 1.1 Social Media has become a significant part of many people's lives. By its very nature, Social Media accumulates a sizable amount of information about a person's life, from daily routines to specific events. Their accessibility on mobile devices can also mean that a person's precise location at a given time may also be recorded whenever they interact with a form of Social Media on their devices. All of this means that incredibly detailed information can be obtained about a person and their activities.
- 1.2 Social Media can therefore be a very useful tool when investigating alleged offences with a view to bringing a prosecution in the courts. The use of information gathered from the various different forms of Social Media available can go some way to proving or disproving such things as whether a statement made by a defendant, or an allegation made by a complainant, is truthful or not. However, there is a danger that the use of Social Media can be abused, which would have an adverse effect, damaging potential prosecutions and even leave the Council open to complaints or criminal charges itself.
- 1.3 This Policy sets the framework on which the Council may utilise Social Media when conducting investigations into alleged offences. Whilst the use of Social Media to investigate is not automatically considered covert surveillance, its misuse when conducting investigations can mean that it crosses over into the realms of covert and/or targeted surveillance, even when that misuse is inadvertent. It is therefore crucial that the provisions of the Regulation of Investigatory Powers Act 2000 (RIPA), as it relates to covert and directed surveillance, are followed at all times when using Social Media information in investigations.
- 1.4 It is possible for the Council's use of Social Media in investigating potential offences to cross over into becoming unauthorised surveillance, and in so doing, breach a person's right to privacy under Article 8 of the Human Rights Act. Even if surveillance without due authorisation in a particular instance is not illegal, if authorisation is not obtained, the surveillance carried out will not have the protection that RIPA affords and may mean it is rendered inadmissible.
- 1.5 It is the aim of this Procedure to ensure that investigations involving the use of Social Media are done so lawfully and correctly so as not to interfere with an accused's human rights, nor to require authorisation under RIPA, whilst ensuring that evidence gathered from Social Media is captured and presented to court in the correct manner.
- 1.6 Officers who are involved in investigations, into both individuals and business they suspect to have committed an offence, should consult Legal Services if they are unsure about any part of this Policy and how it affects their investigative practices.

## **2.0 REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)**

- 2.1 With the increasing use of smartphones and personal devices, there is a significant amount of information on an individual's Social Media pages. This information might be relevant to an investigation being undertaken by the Council. However, unguided research into the sites of suspects could fall within the remit of RIPA and therefore require authorisation prior to it being undertaken. Officers should therefore seek advice from Legal Services prior to undertaking any investigation using Social Media sites.
- 2.2 Officers embarking on any form of investigatory action should always do so with RIPA in mind. Whilst RIPA will not always be relevant to every investigation, it is vital that officers involved in investigative practices against individuals, regularly review their conduct with respect to investigatory actions. Any investigation is capable of evolving from being one that does not require RIPA authorisation, to one that does, at any point.
- 2.3 Accordingly, this Policy should be read in conjunction with the Council's current Code of Practice on Covert Surveillance, as well as the statutory codes of practice issued by the Secretary of State and the Office of Surveillance Commissioners' Guidance.
- 2.4 Instances of repeated and/or regular monitoring of Social Media accounts, as opposed to one-off viewing, may require RIPA authorisation. Advice should be sought from Legal Services where it is envisaged that this level of monitoring will be required in relation to a particular investigation. See paragraph 6.2 below.

## **3.0 WHAT IS MEANT BY 'SOCIAL MEDIA' FOR THE PURPOSES OF THIS POLICY**

- 3.1 Social Media, sometimes also referred to as a Social Network, can take many forms. This makes defining Social Media, for the purposes of this policy, difficult, however there are some facets which will be common to all forms of Social Media.
- 3.2 Social Media will always be a web-based service that allows individuals and/or businesses to construct a public or semi-public profile. Beyond this, Social Media can be very diverse, but will often have some, or all, of the following characteristics:
  - The ability to show a list of other users with whom they share a connection; often termed "friends" or "followers",
  - The ability to view and browse their list of connections and those made by others within the system
  - Hosting capabilities allowing users to post audio, photographs and/or video content that is viewable by others

Social Media can include community based web sites, online discussions forums, chatrooms and other social spaces online as well.

3.3 Current examples of the most popular forms of Social Media, and therefore the most likely to be of use when conducting investigations into alleged offences, include:

Facebook	Twitter	Instagram
LinkedIn	Pintrest	Tumblr
Reddit	Flickr	Google+

3.4 The number and type of Social Media available to the public is fluid. In a given year, many new sites can open whilst some of the more established names can wain in popularity. This Policy will concentrate on Social Media generally and will not make reference to specific sites or services.

#### **4.0 PRIVACY SETTINGS**

4.1 The majority of Social Media services will allow its users to decide who can view their activity, and to what degree, through the use of privacy settings. Whilst some users are happy, or otherwise indifferent about who is able to view their information, others prefer to maintain a level of privacy.

4.2 Depending on their intentions, many users will purposely use Social Media with no privacy setting applied whatsoever. This could be due to the fact that they are actively promoting something, such as a business or event, and therefore require as many people as possible to be able to view their Social Media profile at all times; others may do so for reasons of self-promotion or even vanity. The information publicly available is known as an individual's public profile.

4.3 Those individuals with public profiles who operate on Social Media without any, or only limited, forms of privacy settings being activated do so at their own risk. Often, Social Media sites will advise its users through its terms and conditions of the implications of not activating privacy controls, namely that all content they publish or share will be viewable by everyone, including sometimes people who, themselves, do not have an account with that provider.

4.4 Whilst the content or information shared by individuals on Social Media remains the property of that individual, it is nonetheless considered to be in the public domain. Publishing content or information using a public, rather than a private setting, means that the individual publishing it is allowing everyone to access and use that information, and to associate it with them.

4.5 The opposite of a public profile is a private profile. Some users of Social Media will not wish for their content, information or interactions to be viewable to anyone outside of a very small number of people, if any. In

these instances, users will normally set a level of privacy on their Social Media profiles that reflects what they are comfortable with being made available, meaning that, for example, only friends, family and other pre-approved users are able to view their content or make contact with them through that site.

4.6 By setting their profile to private, a user does not allow everyone to access and use their content, and respect should be shown to that person's right to privacy under Article 8 of the Human Rights Act. This does not, however, extend to instances where a third party takes it upon themselves to share information which originated on a private profile on their own Social Media profile. For example, Person A publicises on their *private* Social Media page that they intend to throw a party, at which they will be selling alcohol and providing other forms of licensable activities, despite not having a licence from the Council to do so. Person B, who "follows" Person A's Social Media page, re-publishes this information on their *public* Social Media page. The information on Person A's profile cannot be used, however the same information on Person B's profile, can.

## **5.0 WHAT IS PERMITTED UNDER THIS POLICY**

5.1 Whether or not Social Media can be used in the course of investigating an offence, or potential offence, will depend on a number of things, not least of which is whether the suspect has a Social Media presence at all. Investigating offences will always be a multi-layered exercise utilising all manner of techniques, and it is important not to place too high an emphasis on the use of Social Media in place of more traditional investigative approaches.

5.2 Further to this, a lack of information on an individual's Social Media profile should not be taken as evidence that something is or is not true. For example, a lack of evidence corroborating an individual's assertions that they were at a particular location on a specific day does not prove that they are being misleading and it is important to consider it only as part of a well-rounded investigation.

5.3 For those individuals who do have a presence on Social Media, a lot of what is permitted under this policy for use in investigations will depend on whether they have a public or private profile. As outlined in 4.4 above, where a person publishes content on a public profile, they allow everyone, including those not on that particular Social Media platform, to access and use that information whilst also allowing it to be associated with them.

5.4 In practice, this means that things such as photographs, video content or any other relevant information posted by individuals and businesses to a public profile on any given Social Media platform can be viewed, recorded and ultimately used as evidence against them should the matter end in legal proceedings, subject to the usual rules of evidence.

5.5 When considering what is available on an individual's public Social Media profile, those investigating an offence, or potential offence, should always keep in mind what relevance it has to that investigation. Only information that is relevant to the investigation at hand, and goes some way toward proving the offence, should be gathered. If there is any doubt as to whether something is relevant, then advice should be sought from Legal Services.

## **6.0 WHAT IS NOT PERMITTED UNDER THIS POLICY**

6.1 When it is discovered that an individual under investigation has set their Social Media account to private, Officers should not attempt to circumvent those settings under any circumstances. Such attempts would include, but are not limited to;

- sending "friend" or "follow" requests to the individual,
- setting up or using bogus Social Media profiles in an attempt to gain access to the individual's private profile,
- contacting the individual through any form of instant messaging or chat function requesting access or information,
- asking family, friends, colleagues or any other third party to gain access on their behalf, or otherwise using the Social Media accounts of such people to gain access, or
- any other method which relies on the use of subterfuge or deception.

Officers should keep in mind that simply using profiles belonging to others, or indeed fake profiles, in order to carry out investigations does not provide them with any form of true anonymity. The location and identity of an officer carrying out a search can be easily traced through tracking of IP Addresses, and other electronic identifying markers.

6.2 A distinction is made between one-off and repeated visits to an individual's Social Media profile. As outlined at paragraph 2 above, a RIPA authorisation must be sought in order to carry out directed surveillance against an individual. Whilst one-off visits, or otherwise infrequent visits spread out over time, cannot be considered "directed surveillance" for the purposes of RIPA, repeated or frequent visits may cross over into becoming "directed surveillance" requiring RIPA authorisation. A person's Social Media profile should not, for example, be routinely monitored on a daily or weekly basis in search of updates, as this will require RIPA authorisation, the absence of which is an offence. For further guidance on this point, officers should contact Legal Services.

6.3 Regardless of whether the Social Media profile belonging to a suspected offender is set to public or private, it should only ever be used for the purposes of evidence gathering. Interaction or conversation of any kind should be avoided at all costs, and at no stage should a Council Officer seek to make contact with the individual through the medium of Social Media. Any contact that is made may lead to accusations of harassment or, where a level of deception is employed by the Officer, entrapment,

either of which would be detrimental and potentially fatal to any future prosecution that may be considered.

## **7.0 CAPTURING EVIDENCE**

- 7.1 Once content available from an individual's Social Media profile has been identified as being relevant to the investigation being undertaken, it needs to be recorded and captured for the purposes of producing as evidence at any potential prosecution. Depending on the nature of the evidence, there are a number of ways in which this may be done.
- 7.2 Where evidence takes the form of a readable or otherwise observable content, such as text, status updates or photographs, it is acceptable for this to be copied directly from the site, or captured via a screenshot, onto a hard drive or some other form of storage device, and subsequently printed to a hard copy. The hard copy evidence should then be exhibited to a suitably prepared witness statement in the normal way.
- 7.3 Where evidence takes the form of audio or video content, then efforts should be made to download that content onto a hard drive or some other form of storage device such as a CD or DVD. Those CD's and/or DVD's should then be exhibited to a suitably prepared witness statement in the normal way. Any difficulties in downloading this kind of evidence should be brought to the attention of the Council's IT Team who will be able to assist in capturing it.
- 7.4 When capturing evidence from an individual's public Social Media profile, steps should be taken to ensure that all relevant aspects of that evidence are recorded effectively. For example, when taking a screenshot of a person's Social Media profile, the Council Officer doing so should make sure that the time and date are visible on the screenshot in order to prove when the evidence was captured. Likewise, if the evidence being captured is a specific status update or post published on the suspected offender's profile, steps should be taken to make sure that the date and time of that status update or post is visible within the screenshot. Without this information, the effectiveness of the evidence is potentially lost as it may not be admissible in court.
- 7.5 Due to the nature of Social Media, there is a significant risk of collateral damage in the form of other, innocent parties' information being inadvertently captured alongside that of the suspected offender's. When capturing evidence from a Social Media profile, steps should be taken to minimise this collateral damage either before capturing the evidence, or subsequently through redaction. This might be particularly prevalent on Social Media profiles promoting certain events, where users are encouraged to interact with each other by posting messages or on photographs where other users may be making comments.

## **8.0 OTHER INFORMATION TECHNOLOGY TOOLS AVAILABLE FOR INVESTIGATIVE PURPOSES**

- 8.1 Whilst Social Media can be a useful and fruitful means of investigating offences and potential offences, it is by no means the only tool available within the realm of Information Technology. A vast array of other, mostly web-based tools are also at the disposal of those conducting investigations. For example, where there is a website advertising the services of a local business, and there is evidence that this business is engaging in illegal activity, there are IT tools available that can track who is responsible for setting up that website, and so can be a good starting point when trying to link potential offenders to the offending business.
- 8.2 For assistance in identifying which tools may be appropriate, and how best to utilise them, advice should be sought from the Legal Services and or the Council's IT team.

## **9.0 RETENTION AND DESTRUCTION OF INFORMATION**

- 9.1 Where recorded material (in any form or media) is obtained during the course of an investigation which might be relevant to that investigation, or another investigation, or to pending or future civil or criminal proceedings, then it should **not** be destroyed, but retained in accordance with the requirements of the Data Protection Act 2018 , the Freedom of Information Act 2000, and any other legal requirements, including those of confidentiality, and the Council's policies and procedures regarding document retention. Advice should be sought from the Data Protection Officer or the Monitoring Officer.
- 9.2 Personal data gathered by the Council is subject to the Data Protection Act 2018. When considering whether to retain the data, the Council should:
  - review the length of time it keeps personal data;
  - consider the purpose or purposes it holds the information for in deciding whether (and for how long) to retain it;
  - ensure that there is a lawful basis for processing the personal data
  - securely delete information that is no longer needed for this purpose or these purposes; and
  - update, archive or securely delete information if it goes out of date
  - ensure that whilst data is held it is kept secure at all times
- 9.3 Due to the nature of Social Media, it is important to remember that when information produced as a hard copy is destroyed in line with this paragraph, that all digital copies of that evidence is likewise destroyed.

## **10.0 REVIEW**

- 10.1 This Policy will be reviewed annually in line with the Council's Code of Practice on Covert Surveillance to ensure that both documents remain current and compliant with relevant legal requirements and best practice guidance.



# Data Protection Policy

August 2021



Customer Business Culture

# Data Protection Policy

## CONTEXT

Colchester Borough Council needs to collect and use information about the people with whom it works; members of the public; current, past and prospective employees; customers; suppliers and others in order to carry out its duties. This Data Protection Policy sets out the organisation's commitment and approach to data protection and provides a clear frame of reference for employees to determine the organisation's standards, aims, and ideals in respect of data protection compliance.

The processing of personal data in the United Kingdom is regulated by law. The principle statutory instrument setting out the legal obligations of those handling personal data is the Data Protection Act 2018 (DPA 2018). Other laws inter-relate with the DPA 2018 including, but not limited to, the General Data Protection Regulation (GDPR), the Privacy and Electronic Communications Regulations (2003) and the Freedom of Information Act (2000). These laws are collectively referred to in this Policy as Data Protection Legislation.

## POLICY STATEMENT

Colchester Borough Council is committed to compliance with all relevant Data Protection Legislation and will formally delegate appropriate powers and responsibilities to its personnel to ensure that it is fully able to comply with Data Protection Legislation and its own defined standards in the field of data protection and information governance.

The Council will ensure that sufficient and appropriate resources are available to ensure that it meets both its legal obligations in respect of Data Protection Legislation and the standards that it sets through its policies. The Council will ensure that the organisation works within the 6 data protection principles and that it will implement sufficient controls to ensure that it is able to demonstrate compliance with the Data Protection Legislation including the keeping of sufficient records of data processing activities, risk assessments and decisions relating to data processing activities.

The Council will uphold the rights and freedoms of people conferred on them by the Data Protection Legislation. It will ensure that those rights and freedoms are appropriately taken into account in the decisions it takes which may affect people and will ensure that it has sufficient controls in place to assist people who wish to exercise their rights. The Council will ensure that data subjects have appropriate access, upon written request, to personal information relating to them and will ensure the data subjects' rights to rectification, erasure, restriction, portability and object are adhered to.

This policy applies to all Council activities and operations which involve the processing of personal data. This policy applies to anyone who is engaged to process personal data for or on behalf of the Council including: employees, volunteers, casual and temporary staff, directors and officers, Councillors and third-parties such as sub-contractors and suppliers, and anyone who the Council shares or discloses personal data with/to.

The Council will ensure that all personal data is handled properly and with confidentiality, at all times, irrespective of whether it is held on paper or by electronic means. This includes:

- The obtaining of personal data
- The storage and security of personal data
- The use and processing of personal data
- The disposal of or destruction of personal data.

## THE PRINCIPLES OF DATA PROTECTION

Whenever collecting or handling information about people the Council will ensure that:

- Personal data is processed, lawfully, fairly and in a transparent manner
  - No data collection activities will be undertaken or commissioned without an appropriate privacy notice being provided to the person about whom data are being collected
  - No data collection activities will be undertaken or commissioned without there being a lawful ground for the data processing activities intended to be applied to the personal data
- The purposes for which personal data is obtained and processed are specified and that data is not used for any other purpose
- Processing of personal data is adequate relevant and limited to what is necessary
- It uses reasonable endeavours to maintain data as accurate and up-to-date as possible
- Personal data is retained only for as long as necessary
  - The Council will maintain a data retention schedule setting out approved retention periods
- Data is disposed of properly
- All personal data is processed in accordance with the rights of the individual concerned
- Personal data is processed in an appropriate manner to maintain security
- The movement of personal data is done in a lawful way, both inside and outside the Council, and that suitable safeguards exist, at all times.
- A Data Breach Reporting Procedure is maintained
  - All employees and those with access to personal data are aware of it
  - The Council will log all personal data breaches and will investigate each incident without delay
  - Appropriate remedial action will be taken as soon as possible to isolate and contain the breach, evaluate and minimise its impact, and to recover from the effects of the breach
- Periodic compliance checks are completed to test whether its policies and procedures are being adhered to and to test the effectiveness of control measures
- They strive to foster a culture of data protection by design and by default in all data processing activities

- The Council's Chief Executive Officer is the Accountable Officer ultimately responsible for ensuring that all information is appropriately protected.

## DEFINITION OF SPECIAL CATEGORY DATA

The legislation makes a distinction between 'personal data' and 'special category data':

Personal data is defined as data relating to a living individual who can be identified from that data, or from that data and other information which is in the possession of, or is likely to come into the possession of, the data controller. This will include any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual.

Special category data is defined as personal data consisting of information as to:

- Racial or ethnic origin
- Political opinion
- Religious or other beliefs
- Trade union membership
- Physical or mental health or condition
- Sexual life or sexual orientation
- Criminal proceedings or convictions
- Philosophical
- Genetic data
- Biometric data.

## ROLES AND RESPONSIBILITIES

Colchester Borough Council will ensure that:

- A member of staff, the Data Protection Officer (DPO), is appointed who has specific responsibility for data protection within the Council
- Any disclosure of personal data is in compliance with the law and with approved procedures
- Anyone managing and handling personal information understands that they are legally bound to follow good data protection practice
- Anyone managing and handling personal information is appropriately trained and supervised
- Staff have access only to personal information relevant to their roles

- Appropriate advice and guidance is available to anyone wanting to make enquiries about personal information held by the Council
- Enquiries and requests regarding personal information are handled courteously and within the time limits set out in law
- All staff and councillors are fully aware of this policy and of their duties and responsibilities under Data Protection Legislation
- Where personal data may need to be shared with third parties in order to deliver services or perform our duties, the Council will only share personal data when a lawful basis from the legislation can justify that sharing, where it is necessary to achieve a clear purpose and, with that purpose in mind, it is fair and proportionate to do so
- Data Protection Impact Assessments (DPIA) are conducted, and signed off by the Data Protection Officer and the Senior Information Risk Owner (SIRO) where processing presents a high risk to the privacy of data subjects
- A record of personal data processing is kept and maintained.

Everyone will ensure that:

- All data processing operations under their control or sphere of responsibility or commissioned by them are undertaken in compliance with this policy and other relevant data protection policies
- Paper files and other records or documents containing personal and or special category data are kept securely and destroyed securely
- Personal data held electronically is protected by the use of secure passwords
- All users must choose passwords which meet the security criteria specified by the Council
- Staff working remotely from home or elsewhere must keep any Council owned equipment they use secure and prevent systems and data for which the Council is responsible being used or seen by members of their family or any other unauthorised person
- No personal data is disclosed either verbally or in writing, accidentally or otherwise, to any unauthorised third party
- Personal data is not stored on personal devices or forwarded to personal email accounts
- Personal data is not to be left where it can be accessed by persons not authorised to see it
- Personal data is kept up to date and accurate
- Personal data is kept in accordance with the Council's retention schedule
- Any data protection breaches are swiftly brought to the attention of the Data Protection Officer and that they support the Data Protection Officer in resolving breaches
- Where there is uncertainty around a data protection matter advice is sought from the Data Protection Officer.

The Council reserves the right to contract out data processing activities or operations involving the processing of personal data in the interests of business efficiency and effectiveness. No third-party data processors will be appointed who are unable to provide satisfactory assurances that they will handle personal data in accordance with the Data Protection Legislation. All processors, contractors, consultants, partners must:

- Confirm in writing that they will abide by the requirements of the legislation with regard to information obtained from the Council
- Provide assurance relating to their compliant handling of personal data and when requested allow the Council to audit the protection of data held on its behalf
- Ensure that they and all persons appointed by them who have access to personal data held or processed for or on behalf of the Council are aware of this Policy and are fully trained in their duties and responsibilities under Data Protection legislation
- Ensure that the Council receives prior notification of any disclosure of personal data to any other organisation or any person who is not a direct employee of the contractor
- Indemnify the Council without limitation against any prosecutions, claims, proceedings, actions or payments of compensation or damages arising from the loss or misuse of data. Any breach of any provision of Data Protection Act 2018 (DPA 2018) or the General Data Protection Regulations (GDPR) will be deemed as being a breach of any contract between the Council and that individual, company, partner or firm.

The Council's Data Protection Officer is responsible for:

- Ensuring that staff are aware of this policy
- Advising the Council and its staff of its obligations under Data Protection legislation
- Ensuring the provision of cascade Data Protection training, for staff within the Council
- The development of best practice guidelines
- Ensuring compliance checks are undertaken to ensure adherence, throughout the authority, with Data Protection Legislation
- Providing advice where requested on Data Protection Impact Assessments
- To co-operate with and act as the contact point for the Information Commissioner's Office (ICO)
- Conducting an annual review of this Data Protection Policy and the practices and procedures pertaining to it to ensure continuing compliance with all relevant statutory provisions.

The Council's Senior Information Risk Owner, is responsible for:

- Ensuring appropriate mechanisms are in place to support service delivery and continuity
- Being the organisation's leader and Champion for Information Risk Management and Assurance
- Advocating good information management and security practices
- Acting in an arbitrary role – to challenge risk mitigation
- Ensuring others are undertaking risk assessments and assurance activities

- Reporting annually to the Accountable Officer
- Is the senior manager with accountability for data protection and information risk and provides a link to the Council's Senior Management Team (SMT).

## COUNCILLORS

This policy applies to Councillors, and all Councillors are made aware of the advice produced by the Information Commissioners Office (ICO).

## THE INFORMATION COMMISSIONER

Colchester Borough Council is registered with The Information Commissioner as a data controller. The DPA 2018 requires every data controller who is processing personal data to notify and renew their notification on an annual basis.

## POLICY REVIEW

The policy will be reviewed on an annual basis and updated as necessary at these reviews.

## FURTHER INFORMATION

For further information about Colchester Borough Council's compliance with Data Protection Legislation, please visit [www.colchester.gov.uk/privacy](http://www.colchester.gov.uk/privacy) or email [dpo@colchester.gov.uk](mailto:dpo@colchester.gov.uk).

## VERSION CONTROL

Purpose:	To specify how the Council complies with Data Protection Legislation
Status:	Draft
Final date:	
To be reviewed:	August 2022





# Acceptable Use Policy

August 2021



Customer Business Culture

# Acceptable Use Policy

## CONTEXT

We must act appropriately with the information we obtain and hold, and with the systems we use and access. How you use our systems, telephony, email and intranet is important for our reputation and the trust of our customers. This Acceptable Usage Policy covers the security and use of all IT equipment. This policy applies to all employees, Councillors, voluntary workers, agency staff and contractors.

## APPLICATION OF POLICY

Everyone who uses information and communications technology provided by Colchester Borough Council (CBC) must be aware of these policy statements and the obligations it places upon them.

Colchester Borough Council commits to informing all employees, members, voluntary workers, agency staff, contractors, Councillors and other third parties of their obligations before they are authorised to access systems and information. Other organisations, and their users, granted access to technology managed by the organisation must abide by this policy.

## ACCESS TO IT SYSTEMS

- You must not allow anyone else to use your user username and password on any IT system.
- You must not disclose your password to anyone or ask anyone else for their password. If you suspect your password has become known to anyone else, change it immediately and report it to the ICT team.
- You must not leave user accounts logged in at an unattended and unlocked computer.
- You must not attempt to access data that you are not authorised to use or access.
- You must not install, access or modify applications, systems or data without authorisation.
- You must maintain the security of information as defined in the Information Security Policy.
- You must not access other people's email without their permission.
- You must not forward corporate emails to personal email accounts.
- If you receive or view email or other content not intended for you, you must protect its confidentiality.
- You must take care when replying or forwarding to ensure that only relevant parties are included.

## PASSWORDS

- You must not use someone else's username and password to access any IT systems.

- You must not leave your password unprotected (for example writing it down or sharing it with another person).
- Passwords must meet the requirements of the Council's Password Policy.
- All CBC devices must be password protected.

## BEHAVIOUR

- You must not participate in unlawful, libellous, immoral or offensive activities, including accessing, downloading, storing, creating, copying or disseminating offensive material. This includes, but is not limited to, material of a pornographic, sexual, violent, criminal, racist, sexist or otherwise discriminatory nature. Further, you must not use the systems to perpetrate any form of fraud or piracy.
- You must not publish a website, or any content on a website, that could bring the organisation into disrepute. This includes publishing defamatory or knowingly false material about the organisation, colleagues or customers in any online publishing format.
- Only subscribe to services with your professional email address when representing the Council.
- CBC facilities and identity must not be used for commercial purposes outside the authority or remit of the Council, or for personal financial gain.
- You must not use the internet or email to make personal gains or conduct a personal business.
- You must not use the internet or email to gamble.
- You must not bring the Council into disrepute through use of online 'social networking' activities.
- You must report faults with information and communications technology and co-operate with fault diagnosis and resolution.
- If you use our technology or our internet provision for personal use, the Council takes no responsibility for the security of your personal information. It is recommended you do not carry out personal financial transactions.

## DEVICES

- You must not connect any non-authorised device to the network or IT systems.
- You must not store data on any non-authorised equipment.
- In order to comply with Data Protection Legislation, all Council communications must only be made using Council approved applications and devices.

## STORAGE

- You must not give or transfer data or software to any person or organisation, without following the Security Policy.
- Documents must not be stored locally (for example on c drive) on a desktop computer or laptop, as they are not backed up and information may be irretrievable if the device fails or is stolen. This includes synchronising SharePoint and OneDrive to a local device without ICT authorisation or on a secured CBC supplied device.

- The use of mobile devices such as memory sticks, CDs, DVDs and removable hard drives must be authorised by the Strategic ICT Manager. Devices will only be authorised if they can be secured through a password or similar encryption. Personal data must not be stored on mobile devices, unless approved by the Strategic ICT manager.

## SECURITY AND LICENSING

- You must not attempt to disable or bypass anti-virus, malware or other security protection, and you should take care not to introduce viruses or malware. If you discover a virus or malware, you must notify ICT immediately.
- You must not use the email systems in a way that could affect its reliability or effectiveness, for example distributing chain letters or spam.
- You must only use software that is appropriately licensed and materials which are not copyrighted, or for which you have been granted use.

## WORKING REMOTELY

- Working away from the office must be in line with Colchester Borough Council's remote working policy.
- Equipment and media taken off-site must not be left unattended in public places and not left in clear view in a vehicle.
- Laptops must be carried as hand luggage when travelling.
- Information should be protected against loss or compromise when working remotely.

## USE OF SHAREPOINT

- You must not purposely engage in activity that may deprive an authorised user access to a SharePoint resource.
- You must not attempt to access content for which you do not have permission.
- You must not circumvent SharePoint security measures.
- All staff must maintain the supported infrastructure setup by filing the documents via Adding Properties or via the Details menu and not creating folders within folders.
- Site owners are responsible for managing the use of SharePoint in their area and are accountable for their actions.
- Site owners are responsible for the custody or operation of their SharePoint sites and are responsible for proper authorisation of user access.
- Data used in SharePoint must be kept confidential and secure by the user.
- You must ensure that permissions to document libraries are appropriately set and maintained to ensure the security of information.
- Site owners should review the permissions set on their sites at least annually to ensure unauthorised staff do not have access.
- You must ensure that private or personal documents are secured to ensure the security of information.

- Data can be shared with external people/organisations using for example the 'External sharing' SharePoint site. All documents shared must be removed once the need to share has expired. Any special category data shared in this way must be done with the appropriate set up of SharePoint permissions to ensure the security of that data.

## USE OF ONEDRIVE

- OneDrive must not be used as a replacement for corporate shared document management, SharePoint.
- OneDrive documents, for example training notes, certificates, 121 meeting notes must not be kept for longer than necessary.

## USE OF TEAMS

- Personal data should not be shared via teams messaging. Where possible, work documents should be stored on SharePoint, not Files tab on Teams. Where it is not possible, make sure the permissions for the Files are set appropriately.
- All users should ensure that permissions for documents are set appropriately
- All users should ensure that only permitted participants are added to teams channels
- Care should be taken when screen sharing and/or recording a meeting to make sure that personal data is not disclosed inappropriately. Permission should be sought from all attendees before recording starts.
- Ensure that when making video calls the environment you are calling from and any backgrounds you are using are appropriate for business use.

## MOBILE PHONES

- Requests for a mobile phone will be subject to a valid business case being made and management authorisation.
- In order to prevent unauthorised access, devices must be password protected using the features of the device and a strong password is required to access the network.
- The primary reason for being given a work mobile phone is for business purposes. Using the phone for personal calls should not interfere with daily business and wherever possible be made outside of working hours.
- Employees are expected to use the internet responsibly and productively. Excessive personal internet browsing, including social media use, is not permitted.
- Mobile phones should be connected to wi-fi networks where available to prevent excessive use of data and use of the mobile phone to create a hotspot to work from should be used in exceptional circumstances only. Mobile data usage will be monitored and consistent excessive use may lead to suspension of service.
- Calls to premium rate numbers and overseas are not permitted, unless there is a real business need and authorisation has been provided by the relevant Assistant Director.
- You must not use Colchester Borough Council mobile devices for conducting private business.

- Mobile devices may not be used at any time to, store or transmit illicit materials or harass others.
- When driving, staff are expected to comply with the Council's Vehicle User Handbook and the Road Vehicles (Construction and Use) (Amendment) (No4) Regulations 2003, which prohibit the use of handheld mobile devices at all times when driving.
- If your device use is deemed unacceptable, we may cancel your plan and ask for the return of the device.

## WHEN AN EMPLOYEE LEAVES

- Line managers must notify the ICT of any leavers or changes to staff roles so that access can be terminated or amended as appropriate.
- All IT equipment and data, for example laptops and mobile devices including telephones, smartphones, USB memory devices and CDs/DVDs, must be returned to the ICT team.

## MONITORING

The Council maintains the right to examine any system or device used in the course of its business, and to inspect any data held there.

To ensure compliance with this policy, the volume of internet and network traffic, and the use and content of emails and visited internet sites, may be monitored. Specific content will not be monitored unless there is suspicion of improper use.

It is the employee's responsibility to report suspected breaches of this policy without delay to their line management and to the ICT team.

All breaches of this policy will be investigated. Where investigations reveal misconduct, disciplinary action may follow in line with the Council's disciplinary procedures.

## POLICY REVIEW

The policy will be reviewed on an annual basis and updated as necessary at these reviews.

## FURTHER INFORMATION

For further information contact [ict@colchester.gov.uk](mailto:ict@colchester.gov.uk)

## VERSION CONTROL

Purpose:	To specify how the Council maintains security
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# Information Security Policy

August 2021



# Information Security Policy

## CONTEXT

Information is essential to delivering services to citizens and businesses. Information security refers to the defence of information or information systems from unauthorised or unintended access, destruction, disruption or tampering. It is important that the Council acts appropriately with the information we obtain and hold. Confidentiality, integrity and availability of information must be proportional and appropriate to maintain services, comply with the law and provide trust to our customers and partners.

## APPLICATION OF POLICY

Everyone who accesses information the Council holds must be aware of these policy statements and their responsibilities in relation to information security.

Colchester Borough Council commits to informing all employees, voluntary workers, agency staff, contractors, Councillors and other third parties of their obligations before they are authorised to access systems and information and subsequently at regular intervals. Other organisations, and their users, granted access to information held by Colchester Borough Council must abide by this policy.

This policy should be read in conjunction with the Acceptable Use policy and Data Protection policy.

All those who access information may be held personally responsible for any breach or misuse.

## INFORMATION SECURITY PRINCIPLES

Information security is the preservation of:

- Confidentiality – ensuring that information is accessible only to those authorised to have access
- Integrity – safeguarding the accuracy and completeness of information and processing methods
- Availability – ensuring that authorised users have access to information and associated assets when required.

## ROLES AND RESPONSIBILITIES

### The Organisation

- Ensures compliance with law governing the processing and use of information.

### The Chief Executive

- Acts as Accountable Officer ensuring that all information is appropriately protected.

#### Senior Information Risk Owner

- Assures information security within the organisation
- Promotes information security at executive management level
- Provides an annual statement about the security of information assets.

#### Technology Delivery Manager

- Provides a central point of contact for information security
- Manages the investigation and mitigation of information security breaches
- Supports Information Asset Owners to assess risks and implement controls
- Ensures that staff are not able to gain unauthorised access to Council IT systems
- Ensures the security of the central computer suite, ensuring that access is restricted to staff with specific job functions
- Ensures that all system developments comply with the Council's ICT Strategy. All system developments must include security issues in their consideration of new developments
- Ensures that a third-party specialist routinely reviews network security
- Ensures that no external agencies are given access to any of the Council's networks unless that body has been formally authorised to have access. All external agencies will be required to sign security and confidentiality agreements with the Council.

#### System Owners

- Ensure they delete or disable all identification codes and passwords relating to members of staff who leave the employment of the Council on their last working day
- Ensure that all system developments must comply with the Council's ICT Strategy. All system developments must include security issues in their consideration of new developments
- Ensure that written backup instructions for each system under their management are produced. The backup copies should be clearly labelled and held in a secure area. Procedures should be in place to recover to a useable point after restart of this back-up
- Ensure that all systems are adequately documented and are kept up to date so that it matches the state of the system at all times.
- Ensure that a Privacy Impact Assessment (PIA) is completed for the use of any new systems or changes to existing systems

#### Information Asset Owners

- Assess the risks to the information they are responsible for
- Define the protection measures of the information they are responsible for, taking consideration of the sensitivity and value of the information

- Communicate the protection controls to authorised users and ensure controls are followed
- Ensure that a Privacy Impact Assessment (PIA) is completed when data processing changes or before new personal data is collected or processed

All Managers must:

- Ensure their employees are fully conversant with this policy and all associated standards, procedures, guidelines and relevant legislation; and are aware of the consequences of non-compliance
- Develop procedures, processes and practices which comply with this policy for use in their business areas
- Determine which individuals are given authority to access specific information systems. The level of access to specific systems should be on a job function need, irrespective of status
- Ensure that the relevant system administrators are advised immediately about staff changes affecting computer access (for example job function changes, leaving business unit or organisation) so that access may be withdrawn or changed as appropriate
- Ensure that staff are not able to gain unauthorised access to Council ICT systems or manual data
- Ensure all contractors and other third parties to which this policy may apply are aware of their requirement to comply
- Ensure that those users who have access to any part of the Council's Cash Receipting systems whereby they are taking payments either in person or over the phone should only enter card numbers into the relevant Capita payment screens and **under no circumstances** should Card Holder data such as card numbers be written down or copied by anybody as this would breach The Payment Card Industry Data Security Standard (PCI DSS) compliance
- Ensure that if the Council vacates any of its premises, the manager of the service area occupying the premises must undertake appropriate checks of all areas, including locked rooms, basements and other storage areas, to ensure all Council information is removed. Such checks should be documented, dated and signed.

Everyone must:

- Conduct their business in accordance with this policy
- Only access systems and information for which they are authorised
- Only use systems and information for the purposes authorised
- Comply with all applicable legislation and regulations
- Comply with controls communicated by the Information Asset Owner
- Not disclose confidential or sensitive information to anyone without the permission of the Information Asset Owner
- Ensure confidential or special category information is protected from view by unauthorised individuals

- Not copy, transmit or store information to devices or locations (physical or digital) where unauthorised individuals may gain access to it; the security of devices and locations you use are your responsibility
- Protect information from unauthorised access, disclosure, modification, destruction or interference
- Keep passwords secret and do not allow anyone else to use your access to systems and accounts
- Notify the Technology Delivery Manager of any actual or suspected breach of information security policy and assist with resolution
- Co-operate with compliance, monitoring, investigatory or audit activities in relation to information
- Take responsibility for familiarising themselves with this policy and understanding the obligations it places on them
- Reporting any breach, or suspected breach of information security without delay
- When disclosing personal or special category information to customers, particularly over the phone or in person, ensure that they verify their identity. Service areas dealing with customers on a daily basis should have suitable security questions which must always be used
- Always secure laptops and handheld equipment when leaving an office unattended and lock equipment away when leaving the office. Users of portable computing equipment are responsible for the security of the hardware and the information it holds at all times on or off Council property
- Physical security to all office areas is provided through the access control system. Staff should challenge strangers in the office areas without an ID badge. Never let someone you don't know or recognise to tailgate you through security doors
- Staff working from home must ensure appropriate security is in place to protect Council equipment or information. This will include physical security measures to prevent unauthorised entry to the home and ensuring Council equipment and information is kept out of sight. Council issued equipment must not be used by non-Council staff.
- Use of personal devices to access Council systems or data from abroad is not permitted.

ICT is responsible for maintaining the security and integrity of the Council's infrastructure and network by:

- Ensuring all parts of the network, at entry points and internally including wi-fi connections, are secured appropriately, following industry standards
- Ensuring that all user accounts are secured by the use of Multi Factor Authentication (MFA)
- Ensuring that all infrastructure components are secured to industry standards through managed permissions, firewalls and regular security, application and operating system patching
- Ensuring all infrastructure component, server and network devices, have up to date anti-virus application and tools installed
- Maintaining, patching, upgrading and updating via managed ITIL Change Control procedures
- Regularly conducting internal and external penetration tests and ensuring that outcomes are acted on appropriately and within required timeframes
- Ensuring that Global Administration and Administrator accounts are closely monitored and reviewed on a weekly basis
- Enforcing security policies and taking appropriate action when any breach is detected or reported.

## MONITORING

The organisation maintains the right to examine any system or device used in the course of our business, and to inspect any data held there.

To ensure compliance with this policy, the volume of internet and network traffic, and the use and content of emails and visited internet sites, may be monitored. Specific content will not be monitored unless there is suspicion of improper use.

It is the employee's responsibility to report suspected breaches of security policy without delay to their line manager and to the ICT team.

All breaches of this policy will be investigated. Where investigations reveal misconduct, disciplinary action may follow in line with the Council's disciplinary procedures.

## POLICY REVIEW

The policy will be reviewed on an annual basis and updated as necessary at these reviews.

## FURTHER INFORMATION

For further information contact [ict@colchester.gov.uk](mailto:ict@colchester.gov.uk)

## VERSION CONTROL

Purpose:	To specify how the Council maintains information security
Status:	Draft
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# Retention Policy

August 2021



Customer Business Culture

# Retention Policy

## CONTEXT

Colchester Borough Council has to collect and use information about the people with whom it works; members of the public; current, past and prospective employees; customers; suppliers and others in order to carry out its duties. Colchester Borough Council will ensure that it treats all personal information entrusted to it lawfully and correctly.

The Council fully endorses and adheres to the principles set out in the Data Protection Legislation (Data Protection Act 2018 and General Data Protection Regulations). This Retention Policy and the procedures set down in it are reviewed annually to ensure that the Council continues to comply with the requirements of Article 5 (e) of the General Data Protection Regulations (GDPR), *'kept in the form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed'*.

The purpose of this Policy is to ensure that Colchester Borough Council ensures that:

- crucial records can be located and retrieved as required
- records are kept in accordance with legislation
- records are kept in accordance with business requirements
- the best use is made of available storage facilities
- the medium used for each record is the most appropriate.

This policy should be read in conjunction with the Council's Data Protection Policy.

## APPLICATION OF POLICY

The Council will ensure that all personal data is retained and disposed of correctly. For the purposes of this policy, personal data can be held in any medium including, but not exclusively, paper documents or files, electronic images and documents, emails, data records within an electronic dataset, other images, video and audio recordings.

In addition to meeting the requirements of Data Protection Legislation, The Freedom of Information (FoI) Act and the Environmental Information Regulations (EIR) require the Council to maintain records management practices that enable it to respond to requests for information as soon as possible and at the latest within 20 working days.

The Retention Schedule is a control document setting out the periods for which records should be retained to meet the operational needs of the Council and to comply with legal and other requirements. This is a 'live' document which is continually updated.

## RELEVANT PRINCIPLES OF DATA PROTECTION

Whenever retaining or disposing of personal information the Council will ensure that:

- Personal data is retained only for as long as necessary
- Data is disposed of properly
- All personal data is processed in accordance with the rights of the individual concerned
- Appropriate security is maintained
- The movement of personal data is done in a lawful way, both inside and outside the Council, and that suitable safeguards exist.

## DEFINING RETENTION PERIODS

There are a number of considerations that must be made when deciding upon an appropriate retention period.

- Statutory - some retention periods are governed by statute, for example the 'Health and Safety at Work Act 1974' and 'HMRC VAT Notice 700/21: keeping VAT records'. It is therefore essential that any relevant statutory provisions are taken into account when deciding upon a retention period.
- Civil Action - personal data must be retained if it may be needed to defend possible future legal claims. However, linked information that could not possibly be relevant to any claim must not be retained. Personal data must be deleted when a claim could no longer arise. The Limitation Act 1980 imposes various time limits for the taking of legal action.
- DPA, FoI and EIR - if a request for information is made where the records holding that information are due to be destroyed, the destruction of these records must be suspended.
- Data Protection Act - does not specify retention periods. However, the Act does state that where other statutory record retention provisions exist these take precedence. Data controllers are responsible for implementing the DPA and must decide for how long personal data is retained, taking into account the Data Protection principles, business needs, other legal requirements, any professional guidelines, and best or common practice.
- Historical and research - there may be good grounds for keeping personal data for historical, statistical or research purposes.

There is no requirement to keep records of material routinely discarded in the course of any administrative activity such as duplicates, leaflets or other publicity material, rough drafts or ephemera such as sticky notes.

It is an offence to destroy, delete or amend records or data in order to prevent or attempt to prevent the release of information requested under the FoI Act or the EIR. Where the records holding the information requested have been destroyed in accordance with the retention schedule the Council has a duty to explain why the information is no longer held.

## ROLES AND RESPONSIBILITIES

Colchester Borough Council will ensure that:

- Anyone managing and handling personal information understands that they are legally bound to follow good data protection practice
- Anyone managing and handling personal information is appropriately trained and supervised
- Members of staff have access only to personal information relevant to their roles
- A record of personal data processing is kept and maintained, this will include a data classification

Everyone will ensure that:

- Paper files, digital files and other records or documents containing personal and or special category data are kept securely
- Paper files, digital files and other records or documents containing personal and or special category data are destroyed securely
  - Information which could be released under a Freedom of Information (FoI) request – e.g. information that's already publicly available or which wouldn't attract an exemption, cause harm, distress or embarrassment can be disposed of in normal waste bins.
  - Personal data, special category data, confidential information and commercially sensitive data requires secure disposal e.g via confidential waste bins, shredding, destruction of CD etc. ICT can arrange secure disposal of devices such as laptops, phones and removable media.
  - Anyone who is unsure of whether secure disposal is required should contact [data.protection@colchester.gov.uk](mailto:data.protection@colchester.gov.uk) for advice.
- All personal data is kept in accordance with the Council's retention schedule
- Where there is uncertainty around a retention matter ensure that advice is sought from the Data Protection Officer
- The Retention Schedule reflects current legislative requirements for document and records in their care
- The retention of documents and records is fully defined
- Records are accessible and are made available when necessary so that information requests can be responded to promptly
- Records and documents are destroyed or deleted at the end of the retention period in a secure way
- Records are held in accordance with the Data Protection and Freedom of Information Acts and any other relevant provisions.

All contractors, consultants, partners or other servants or agents of the Council must:

- Provide assurance relating to their compliant destruction of personal data and when requested allow the Council to audit the protection of data held on its behalf.

The Council's Data Protection Officer, is responsible for:

- Advising the Council and its staff on matters relating to the retention and destruction of personal data.

## POLICY REVIEW

The policy will be reviewed on an annual basis and updated as necessary at these reviews.

## FURTHER INFORMATION

For further information about Colchester Borough Council's compliance with Data Protection Legislation, please visit [www.colchester.gov.uk/privacy](http://www.colchester.gov.uk/privacy) or email [dpo@colchester.gov.uk](mailto:dpo@colchester.gov.uk).

## VERSION CONTROL

Purpose:	To specify how the Council complies with Data Protection Legislation with regard to Data Retention
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# Income & Debt Management Policy

## Customer Business

# Contents

Introduction .....	3
Policy aims .....	3
Billing and invoicing arrangements .....	3
Methods of payment .....	4
Recovery of unpaid debts .....	5
Council Tax and Business Rates Process .....	5
Sundry Debts Process .....	6
Housing Benefit Overpayment Process .....	7
Enforcement .....	8
Enforcement Agents .....	8
Attachment of Earnings, Fees or Benefits .....	8
Bankruptcy Proceedings/Liquidation .....	8
Charging Order on Property .....	9
Committal Proceedings .....	9
Money Claim .....	9
Vulnerable customers & financial difficulty .....	9
Tracing/Searches .....	10
Bad debts .....	11
Complaints and errors .....	11

# Appendices

Standard enforcement for Mortgages and Shared Ownership Schemes .....	13
Standard enforcement action for Penalty Charge Notices .....	14

## **1. Introduction**

- 1.1 The Council is being increasingly commercial in every aspect and service. We balance the importance of supporting our vulnerable customers whilst increasing our income and streamlining processes.
- 1.2 It is important that the Council offers a wide range of easy payment methods to our customers which are available 24 hours a day to aid swift payment in a safe and secure way. The options available to our customers are continually reviewed and improved.
- 1.3 The Income and Corporate Debt Teams manage services on behalf of other services and organisations. Specific Service Level Agreements will be in place for these services.
- 1.4 This policy covers the collection and procedures of the following debts:
  - Council Tax
  - Business Rates (NNDR)
  - Housing Benefit Overpayment
  - Sundry Debts (including Commercial Rent)
  - Penalty charge notices
  - Mortgages and Shared Ownership Schemes

## **2 Policy Aims**

- To ensure that the Council bill/invoice, collect and recover all debts in an economic, effective and efficient manner in accordance to legislation and best practice
- To ensure that all customers will be treated fairly and objectively
- To provide consistent guidelines and procedures
- To set out preferred payment options which are cost effective and support prompt payments whilst enabling payments to be made 24 hours a day, 7 days a week
- Advise and assist customers to avoid debt issues before they arise
- Make pro-active contact whenever possible, by text, emails or telephone to ensure early intervention and payment

## **3. Billing and Invoicing Arrangements**

- 3.1 There is a legal duty placed on the Council to bill for Council Tax and Non Domestic Rates (Business Rates) in accordance with legislation. The processes are automated and managed by the Technical Control Team and the Income Team.
- 3.2 Sundry (Commercial) debts are more varied and can be dealt with by the Income Team in liaison with the individual services.
- 3.3 The below table shows the billing and recovery process in terms of team responsibility for the different types of debt.

	<i><b>Council Tax</b></i>	<i><b>Business Rates</b></i>	<i><b>Housing Benefit Overpayments</b></i>	<i><b>Sundry Debts</b></i>
<i><b>Account administration</b></i>	Council Tax Team	Business Rates Team	Housing Benefit Team	Individual Service Area
<i><b>Systems Support</b></i>	Technical Team	Technical Team	Technical Team	Finance
<i><b>Billing</b></i>	Technical Team	Technical Team	Technical Team	Income Team
<i><b>Payment Processing</b></i>	Income Team	Income Team	Income Team	Income Team
<i><b>Debt Recovery</b></i>	Corporate Debt Team	Business Rates Team	Housing Benefit Team	Income Team

For all types of income the following principles must be followed:

- When goods or services are being provided payments should always be made up front of service delivery
- For charges relating to hire of goods or premises a reasonable deposit should be taken on booking to cover any potential damage and the full cost of hire
- Services should always consider the risk of non-payment and should actively monitor customer accounts and payment activities to highlight possible accumulation of debts

#### **4. Methods of payment**

4.1 The Council offers the following payment methods:

- Direct debit
- BACS
- Online payments
- Automated telephone line payments

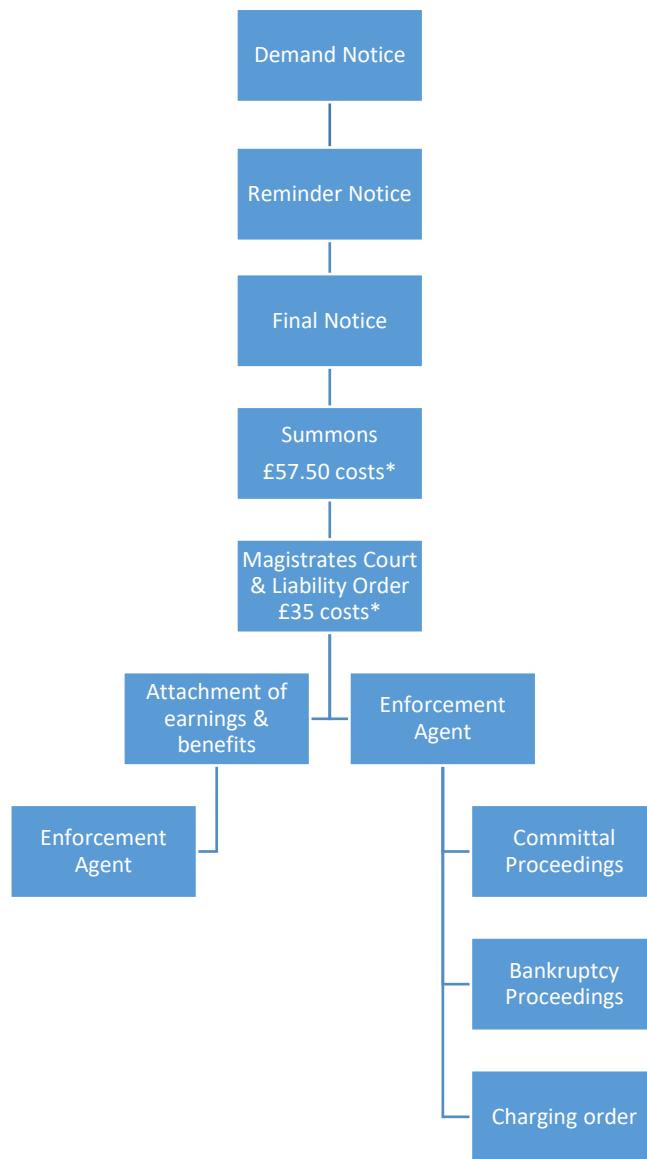
4.3 Services should remove any payment options from promotional materials, bills or other correspondence other than the preferred payment methods. For recurring or regular charges Direct Debit must be promoted as the payment option. For one off charges an upfront debit card internet payment should be promoted followed by other self-serve options.

4.4 It is acknowledged that there may be exceptional circumstances where payments would be received in a method that is not listed above for example if a customer is very vulnerable or if they were in a formal enforcement process.

## 5. Recovery of unpaid debts

- 5.1 For a variety of reasons, revenue due to the Council will not be paid on time. The Corporate Debt Team and individual services must commence recovery action as soon as possible to maximise the probability of debt recovery.
- 5.2 Reminders will use nudge and persuasive techniques that are most likely to attract prompt payment.

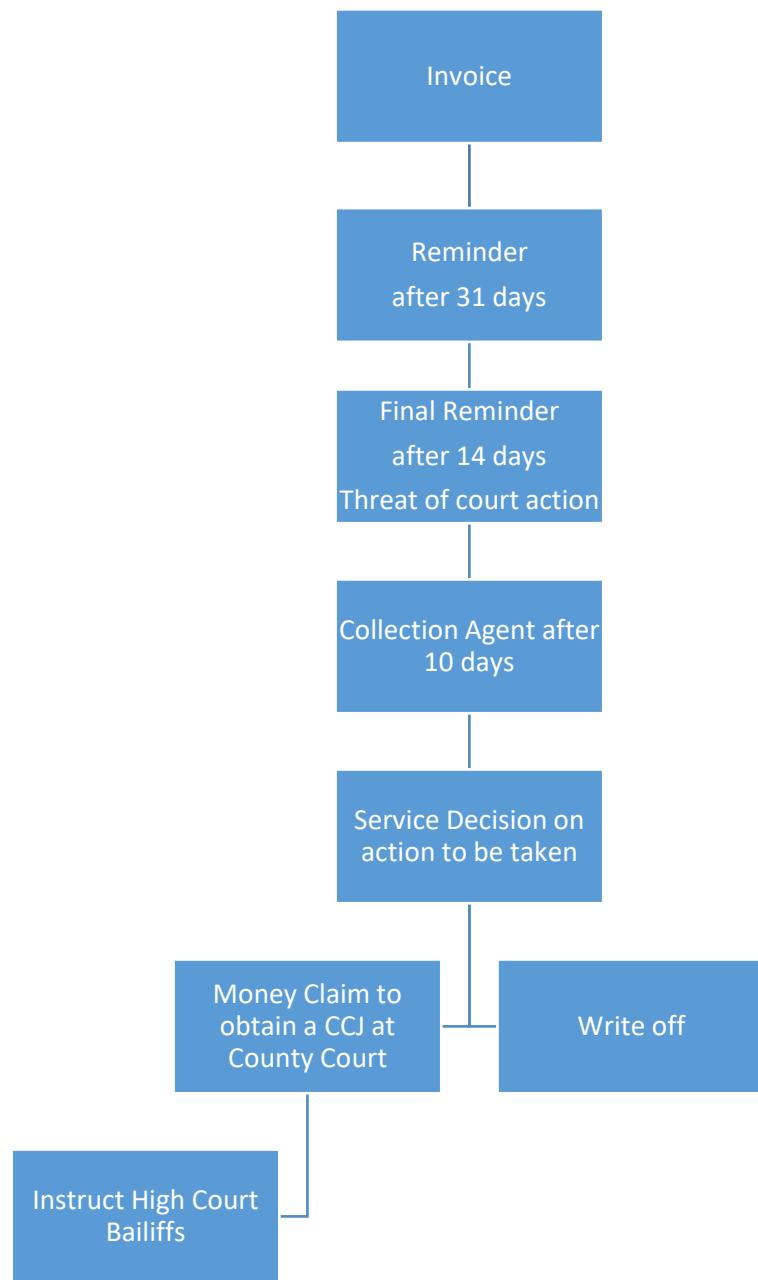
### 6.1 Council Tax and Business Rates Process



\* Please note that Summons and Liability Order costs are subject to review prior to April 2019. The Council calculates the actual cost of issuing the documents and this is recovered as part of the debt. The Council will keep costs to a minimum where possible.

## 7. Sundry Debt Processes

7.1 In the cases of sundry debts it is the service or relevant manager who should decide whether enforcement action should be taken. The Income Team will inform services of any debts owing to them and they should respond to say whether each case should then be enforced.

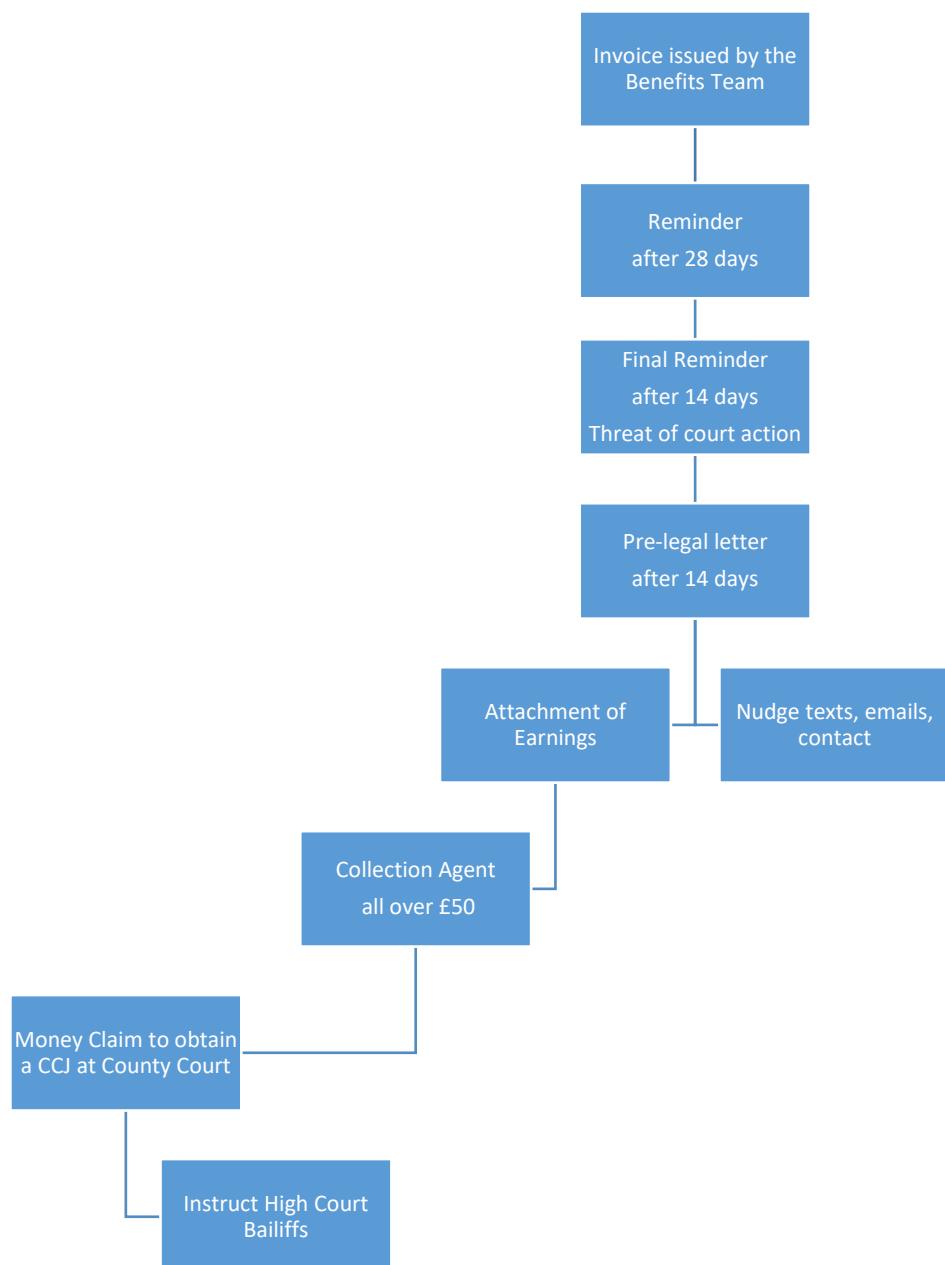


7.2 Actions within sundry debt recovery should be complete in a timely manner. Where delays of over 28 days past the due date are encountered at any stage, the reasons should be detailed within the case notes on system.

7.3 Forfeiture can also be considered for the recovery of commercial rent. This is where the Council will forfeit a lease due to non-payment of rent. The Council will instruct an Enforcement Agent to carry out the process of securing the property.

## 8. Housing Benefit Overpayment

- 8.1 A Housing Benefit Overpayment is where an individual has been overpaid benefit for a period that they were not entitled.
- 8.2 A deduction from the claimant's weekly Housing Benefit shall be set following Housing Benefit Regulations. The claimant will receive notification that the overpayment will be recovered in this way.
- 8.3 Where recovery is not possible from existing Housing Benefit an invoice is issued to the claimant or landlord depending on who is liable. The Income Management Team will make use of landlord 'blameless tenant' recovery in cases where the debt is a landlord overpayment and that landlord has other tenants receiving Housing Benefit. The landlord will be notified that we are to recover the overpayment from the claimant and vice versa.



## **9. Enforcement**

- 9.1 The Council will use all means at its disposal to ensure that any debts owed are recovered following any relevant statutory or civil process to enforce payment.
- 9.2 When initiating recovery action the officer must also consider whether the debtor is vulnerable and how any action would impact on them.
- 9.3 The following enforcement options will be considered by Council Officers (as well as other options specific to an individual case):

## **10. Enforcement Agents**

- 10.1 All Enforcement Agents are regulated and have to act in prescribed ways to our customers. They are all fully trained on how to identify vulnerable customers and wear body cameras so all customer contacts are recorded and can be viewed back if required.
- 10.2 There is a clearly defined stage process and Enforcement Agents can only charge fees for each stage when certain trigger actions have been completed.
  - Stage 1- Compliance stage £75.00
  - Stage 2 – Enforcement Stage £235.00 + 7.5% on the original debt over £1,500
  - Stage 3 – Sale Stage £110.00 + 7.5% on the original debt over £1,500

## **11. Attachment of Earnings, Fees or Benefits**

- 11.1 Used where the debtor is employed or in receipt of other regular income where payments can be taken directly from this income. Deductions are made at a rate determined by legislation.

## **12. Bankruptcy Proceedings/Liquidation**

- 12.1 Used when the debtor is a property owner and it is thought that there will be sufficient equity within the property to support full or partial repayment of the debt.
- 12.2 Cases considered suitable for bankruptcy are selected from cases that have been returned from the bailiff, either unable to gain entry or unable to access or returned no goods.
- 12.3 The following factors must be considered:
  - The level of equity available in the liable property and any other associated properties where the debtor has a financial interest must cover the outstanding debt and associated costs
  - Whether the property is up for sale and therefore a charging order would be more appropriate

### **13. Charging Orders on Property**

10.1 Used where the debtor owns a property, the Council is able to recover debt when the property is sold in the future. The Council may consider this action where the debtor is on a low income and or is classed as vulnerable or elderly.

### **11. Committal Proceedings**

11.1 The law allows Councils to apply to the Magistrates Court to have a person sent to prison where there is culpable neglect or wilful refusal to pay debt.

11.2 This will be used when bankruptcy or charging orders are not appropriate. It is not generally accepted by the local magistrates' court as appropriate action, but can be used when other remedies have been exhausted.

### **12. Money Claim**

12.1 This is an efficient and inexpensive way for the Council to commence the County Court Judgement (CCJ) process via the County Court. Customers are contacted in regard to any debt by The County Court and given the option to pay in full, set up an arrangement for payment or dispute the debt.

12.2 If the judgement is for more than £600 the Council may be able to ask a High Court Enforcement Officer to try to collect the money or remove goods to sell at auction. A warrant is required for this action.

### **13. Vulnerable customers and those who are in financial difficulty**

13.2 The Council is committed to support and assist our vulnerable customers. The Income and Corporate Debt Team work closely with the Customer Support Team and external partners to offer the best solution and advice possible for the vulnerable customer and the Council.

13.3 Extenuating circumstances will be taken into account when considering recovery action in order to protect the vulnerable and avoid transference of a problem elsewhere.

Considerations may include:

- Whether there are very young or elderly people in the household
- Chronic or terminal illness
- Recent bereavement of spouse or member of household
- Potential homelessness
- The ability of the individual or household to make a payment
- Is an Exceptional Hardship Payment (EHP) or Discretionary Housing Payment (DHP) appropriate

For business debts considerations may include:

- Potential loss of employment for employees of the business
- Loss of key facilities for the local community
- A payment option is the only choice because the business has no assets

- Consideration to any relief that may be appropriate.

13.4 Where it has been identified that a customer is suffering from financial difficulties or other extenuating circumstances the Council is committed to providing advice and support as well as a variety of payment options including:

- Holding enforcement action once a customer makes contact to inform of a difficulty in making payment
- Voluntary payment solutions considered in preference to statutory or civil remedies as a first stage
- Past history of payments should be considered when making a decision to proceed with enforcement action
- Where a payment solution is agreed this should be confirmed in writing by the Council including any action that will be taken should the agreed payments not be made
- Payment solutions should be made with an agreed up-front payment from the debtor whenever possible
- Where a payment solution cannot be agreed, the debtor will be advised of the reasons why and that the recovery process will continue should an alternative arrangement not be made

#### **14. Tracing and Searches**

14.1 As part of the recovery process as number of traces and searches can be carried out to try and establish further information on a debtor. This is particularly useful when we have no forwarding address for someone who has moved home before settling a debt.

14.2 Locating Council Tax Absconders (LOCTA) is a local government tracing tool that provides a suite of information including, forwarding address, DWP information, credit reports and telephone numbers.

14.3 If a LOCTA search is unsuccessful the Council may use a Credit Referencing Agency to trace an individual. The Data Protection Act section 29 allows Local Authorities to credit check and search individuals in regard to the collection of Tax.

14.5 The use of internet searches and Social Media to access information in the public domain is also very useful, particularly in establishing employment details for attachment of earnings.

14.6 We can also use a Customer Information System (CIS) check that allows certain authorised officers to search DWP database. This information can only be used for the recovery of Housing Benefit Overpayments.

14.7 If necessary the Council may ask a Revenues Inspector to carry out a visit to establish the status of a property.

## 15. Bad debts

15.1 For the purpose of this policy a bad debt is classified as:

- Money due when there is little or no likelihood of recovery after all methods have been exhausted
- Money due where it is uneconomical or inefficient to recover the sum due
- Money due but the debt is too old (aged) to continue recovery
- Money due where the Council does not wish to pursue recovery because the circumstances of a case would attract well-founded adverse publicity or public reaction, or the concept of natural justice would be compromised

15.2 Where it is considered that a debt is a bad debt the Council will ensure that it is written off promptly to preserve and maintain the principle of accurate and up to date information. Decisions will be made based on the circumstances that exist at the time and any unusual circumstances should be referred to the Head of Service or Portfolio Holder.

<i>Debt Value</i>	<i>Process</i>	<i>Authorised Person</i>
<b>Up to £25</b>	Write off on the system with screen notes using write off code	Corporate Debt/Revenues Officer/Housing Benefit Officer
<b>£25 to £100</b>	As above.  Income and Corporate Debt Manager to carry out spot checks and record for audit purposes.	Corporate Debt/Revenues Officer  Corporate Debt Manager/Housing Benefit Manager
<b>£100 - £5,000</b>	Detailed system checks/searches carried out. If unsuccessful and investigation form is complete and signed.  Investigation forms batched and front schedule to be signed.	Corporate Debt Manager/Housing Benefit Manager  S151 Officer
<b>Over £5,000</b>	A Portfolio Holder report must be complete with details of individual write-offs	Portfolio Holder

15.3 The cumulative total of debts written off will be monitored by the Income and Corporate Debt Manager to ensure that the incidence of bad debt remains consistent with the Council's estimates and projections.

## **16. Complaints and errors**

- 16.1 If an error or mistake is made in the process of recovering debt the account will be reviewed and appropriate action taken.
- 16.2 If a customer is unhappy with the service provided or disagrees with the decisions made they are able to complain through the Councils standard complaints procedure. Details of this can be found on the Council website - <http://www.colchester.gov.uk/complaints>.
- 16.3 During the process of enforcing payment of outstanding debts it is possible that evidence or facts emerge after enforcement proceedings have been taken or have been completed.
- 16.4 In these cases the Council will take appropriate action to remedy the situation as far as possible:
  - Proceedings will be stopped immediately
  - The debtors account will be noted to reflect the revised situation
  - Where appropriate the Court involved will be advised
- 16.5 Although the Council will make every effort to resolve a misrepresentation of the true situation, some issues can only be resolved by reference to the Courts.

## **Appendix 1**

### **Standard Enforcement Actions for Mortgages and Shared Ownership Scheme**

Individual accounts are monitored on a regular basis to ensure that regular monthly payments are received, and reminders sent. Where all or part of the debt is paid by the Pensions Service or the Benefits Division, the receipt of these sums will also be monitored. Whilst standard reminders are available, a more personal approach will often be required.

If the debtor fails to maintain regular payments the Corporate Debt Team will attempt to discuss options. Should this not prove possible, or if arrangements are not adhered to, then the following action will be taken:

#### **Mortgages**

Legal Services will be approached and given sufficient information to allow for the preparation of a possession order to be requested from the District Judge. Whilst Court papers are being prepared, Legal Services will warn the debtor of the implications of non-payment.

If a possession order is obtained, the Income Management Team will monitor the arrangement made. Should payment cease, a Portfolio Holder decision will be required if it becomes necessary to implement the order.

#### **Shared ownership cases**

Where a mortgage is held on the property, then the lender will be advised that rent is not being paid and that forfeiture proceedings are being considered. If the lender will not make payment on behalf of the borrower, or if there is no lender, the Council will decide whether to pursue forfeiture or to attempt to obtain a money judgment for the County Court.

## **Appendix 2**

### **Standard Enforcement Actions for Penalty Charge Notices (North Essex Parking Partnership)**

This debt is collected directly by the North Essex Parking Partnership and not Customer Services.

Parking enforcement is carried out in accordance with the provisions and procedures laid out in the Traffic Management Act 2004. A parking penalty is not a debt until the motorist has exhausted all avenues of appeal.

- 1. Penalty Charge Notice** issued.
- 2. DVLA enquiry** made if no correspondence received or payment received within 31 days.
- 3. Notice to Owner** sent if full payment is not received within 31 days of issue.
- 4. Charge Certificate** sent and charge increased by 50% of full payment, or representation against Notice to Owner, if not received within 31 days.
- 5. Debt registered at County Court** and fees added if full payment is not received within 17 days of Charge Certificate being sent.
- 6. Order for Recovery** sent.
- 7. Apply for a Warrant of Execution and instruct Enforcement Agents (bailiffs)** if full payment or Witness Statement is not received within 21 days of Notice of Debt Registration being sent. A Warrant of Execution has a lifespan of 12 months only and cannot be reissued thereafter. If the Council has been unsuccessful in recovering the penalty charge by means of a Warrant within 12 months and wishes to pursue, the Council must ask the Traffic Enforcement Centre (Northampton County Court) for authorisation to prepare another Warrant. Warrants that have been returned from the Bailiff after a period of 6 months because the debtor could not be traced or there are no funds or goods to seize can be sent to other Bailiff companies for collection.
- 8. If warrants remain unpaid, the council is now able to recover debt using a different process where a valid warrant is not required.**



# Governance and Audit Committee

Item  
**11**

23 November 2021

Report of	Monitoring Officer	Author	Andrew Weavers
Title	<b>Annual review of the Members' Code of Conduct and the Council's Localism Act Arrangements</b>		
Wards affected	Not applicable		

## 1. Executive Summary

- 1.1 This report requests the Committee to review the Councillors' (Members') Code of Conduct, the Council's Localism Act Arrangements for dealing with complaints made regarding councillors and to make recommendations to Full Council regarding any suggested amendments.
- 1.2 The report also provides an update on the number and types of complaints received under the Members' Code of Conduct.

## 2. Recommended Decisions

- 2.1 To note the contents of this report.
- 2.2 To review the Members' Code of Conduct and the Council's "Arrangements" and consider whether to make any recommendations in relation to any amendments to the Members' Code of Conduct and the Council's "Arrangements" to Full Council.

## 3. Background

- 3.1 The Localism Act 2011 ("the Act") introduced the current system of regulation of standards of conduct for elected and co-opted Members. These arrangements came into effect on 1<sup>st</sup> July 2012. The Act requires local authorities to adopt a code of conduct consistent with the seven Nolan Principles of public life and that Principal Authorities put in place "Arrangements" to deal with allegations that Councillors had failed to comply with the Members' Code of Conduct. Principal Authorities are also required to appoint at least one "Independent Person" who are to be consulted as part of the Council's "Arrangements".
- 3.2 The Full Council at its meeting on 25 June 2012 formally adopted the Borough Council's Members' Code of Conduct and its "Arrangements" which are attached to this report at Appendix 2 and Appendix 3 respectively. As part of its "Arrangements", the Full Council at its meeting on 24 May 2017 re-appointed Barbara Pears and Sarah Greatorex as the Council's Independent Persons for a further term of four years.
- 3.3 The Act also introduced the current interest's regime which included the register of Members' interests. The Government published amended guidance in September 2013 for councillors on interests ("Openness and transparency on personal interests – a guide for councillors") which was circulated to all Borough Councillors and to every Town and Parish Council within the Borough.
- 3.4 The Act places on the Borough Council a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members. The Full Council has in turn delegated this function to this Committee as part of its terms of reference.

3.5 The Committee at its meeting on 24 November 2020 last reviewed the Council's Localism Act processes and this report seeks to review our subsequent experience to date.

#### **4. Review of the Code**

4.1 The Act did not prescribe the contents of the Code (save that it should be consistent with the seven Nolan Principles) and accordingly the version of the Members' Code of Conduct adopted by Full Council was the version promoted by the Public Law Partnership. This was to ensure a consistent approach across the County and to ensure that all council's (county, districts and parishes) adopted the same version of the Code to provide a sense of clarity for Councillors.

4.2 The Borough Council's Code was also adopted by the majority of the Town and Parish Council's in the Borough. Several Parish Councils have subsequently changed their Code. The Borough Council's Code has been operating successfully in the past year without any apparent difficulties or concerns and I would propose that the Committee continues to keep the Code under annual review and considers whether to make any recommendations to Full Council regarding any required amendments in the light of experience.

4.3 The Act requires the Monitoring Officer to compile and publish on the Borough Council's website a Register of Members' Interests. This includes Disclosable Pecuniary Interests for both Councillors and their partners and pecuniary and non- pecuniary interests just for Councillors. All the Borough Councillors interests are published and most of those of the Town and Parish Councillors in the Borough have also been published on the Borough Council's website. The Act does make it an offence for a councillor to fail to register their declarable interests within a period of 28 days of becoming elected.

4.4 The Borough Council's Committee Management Information System (CMIS) enables the Register of Members' Interests to be published in line with the Government's transparency agenda so that all Councillors' information is in one place on the website. The Monitoring Officer has the ability to agree with a Councillor that certain interests can be redacted from the public register as being a "sensitive interest" in specified circumstances. This has recently been brought to the attention of all Borough and Parish Councillors in the light of recent events.

4.5 Training on the Code on Conduct is offered regularly by the Monitoring Officer for Borough Councillors together with refresher training for Parish Councils.

#### **5. Review of the Arrangements and the Code of Conduct**

5.1 The Act required the Council to adopt "Arrangements" for dealing with allegations that Councillors have potentially failed to comply with the Code. Any allegations that Councillors have not complied with the Disclosable Pecuniary Interests regime under the Act are not dealt with under the Council's "Arrangements" as they are potentially criminal offences and need to be dealt with by the Police. As at the date of this report there have been no such allegations or referrals.

5.2 The Council's "Arrangements" are made publicly available on the Borough Council's website and have been implemented in relation to both Borough and Parish Councillors. All allegations are received by the Monitoring Officer who makes an initial assessment of the merits of the complaint in consultation with an Independent Person in accordance with the "Arrangements".

5.3 The table at Appendix 1 below details the number, type and outcome of allegations received since 1 July 2012. The table indicates a slight increase in the numbers in the past year. This cannot be attributed to a particular reason. The Localism Act states that the

Code of Conduct only applies when a Councillor is acting in their official capacity as a councillor. This has been upheld by subsequent case law which has confirmed the position. Accordingly, the Code can only be used to regulate Councillors' conduct when they are acting in that capacity. The Council's Code of Conduct is compliant with the law; however the Committee may wish to review its wording.

5.4 Overall the Council's Localism Act "Arrangements" appear to be operating satisfactorily and I would recommend that the Committee continues to keep them under annual review and to make any appropriate recommendations to Full Council on any required amendments to the "Arrangements" in the light of experience.

5.5 The Committee at its meeting on 28 July 2020 considered a report on the Local Government Associations' consultation on its proposed Model Code of Conduct. Subsequently the Local Government Association published its Model Code of Conduct in December 2020. Monitoring Officers of all authorities in Essex have met to discuss whether to recommend that their respective Council's should adopt the Model Code. Concerns were raised particularly about the clarity of the new interests provisions for Members and representations were made. The Local Government Association has subsequently revised its code twice to clarify issues and the latest version is attached at Appendix 4. The Guidance in the behaviours part of the Code is particularly welcome however, concerns remain regarding interests. Further representations are being made prior to any recommendation being made to this Committee as to whether the Council should adopt the Model Code. Currently no Council in Essex has adopted the Model Code. A further report will be submitted to the Committee in due course.

## **6. Strategic Plan References**

6.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan priorities to set out the direction and future potential for our Borough.

## **7. Publicity Considerations**

7.1 The Council's Code of Conduct and "Arrangements" are available on the Council's website [www.colchester.gov.uk/standards](http://www.colchester.gov.uk/standards)

## **8. Financial, Equality, Diversity and Human Rights, Consultation, Health, Wellbeing and Community Safety, Health and Safety, Risk Management and Environmental and Sustainability Implications**

8.1 None.

## **Appendices:**

Appendix 1 – Code of Conduct Allegations received

Appendix 2 – Members' Code of Conduct

Appendix 3 – Localism Act Arrangements

Appendix 4 – Local Government Association's Model Code of Conduct

## Councillor Code of Conduct Allegations received since 1 July 2012

Allegations	Jul12 – Mar13	Apr 13 – Mar 14	Apr 14 – Oct 14	Nov 14- Oct 15	Nov 15 – Oct 16	Nov 16 – Oct 17	Nov 17 – Oct 18	Nov 18 – Oct 19	Nov 19 – Oct 20	Nov 20 – Oct 21	Total
Number received	2	3	2	3	3**	13***	22****	3	6	9	66
Borough Councillor	1	3*	2	1	2	12	13+	3	5++	6***	48
Parish Councillor	1	1	0	2	0	1	9++	0	1	3	18

NB.

\*one complaint was made against two councillors

\*\* two complaints were made against one councillor

\*\*\* two persons made the same complaint against one councillor

\*\*\*\* two persons made same complaint against one councillor – one person made the same complaint against five councillors

• one person made the same complaint against three councillors - two persons made the same complaint against one councillor.

++one person made the same complaint against three councillors

++one person made the same complaint against two councillors

The majority of allegations came under the heading of “treating others with respect” and two under the heading of “not to do anything which may cause the Authority to breach any of the equality enactments”.

Source of complaints	Jul12 – Mar13	Apr 13 – Mar 14	Apr 14 – Oct 14	Nov 14- Oct 15	Nov 15 – Oct 16	Nov 16 – Oct 17	Nov 17 – Oct 18	Nov 18 – Oct 19	Nov 19 – Oct 20	Nov 20 – Oct 21	Total
Member of the public	2	6	2	2	1	9	14	3	5	5	49
Borough Councillor	0	0	0	1	1	1	1	0	0	2	6
Parish Councillor	0	0	0	0	0	2	2	0	1	2	7
County Councillor	0	0	0	0	0	0	0	0	0	0	0
Member of Parliament	0	1	0	0	0	0	0	0	0	0	1

	Jul12 – Mar13	Apr 13 – Mar 14	Apr 14 – Oct 14	Nov 14- Oct 15	Nov 15 – Oct 16	Nov 16 – Oct 17	Nov 17 – Oct 18	Nov 18 – Oct 19	Nov 19 – Oct 20	Nov 20 – Oct 21	Total
Referrals to Governance and Audit Committee	0	0	0	1	1	1	0	0	0	0	3

Outcome	Jul12 – Mar13	Apr 13 – Mar 14	Apr 14 – Oct 14	Nov 14- Oct 15	Nov 15 – Oct 16	Nov 16 – Oct 17	Nov 17 – Oct 18	Nov 18 – Oct 19	Nov 19 – Oct 20	Nov 20 – Oct 21	Total
Not within remit of Code of Conduct	0	0	0	1	0	5	0	1	0	0	7
Merits no further investigation	2	3	2	2	3	8	14	2	6	6	48
Merits further investigation	0	0	0	0	0	0	1*	0	0	1**	1

NB.

\*The complaint which merited further investigation was closed due to the complainant not co-operating with the investigation.

\*\* The investigation was ceased following the Councillor concerned resignation.



## **Localism Act 2011**

### **Promoting and Maintaining High Standards of Conduct in Local Government**

#### **CODE OF CONDUCT FOR MEMBERS**

# Colchester Borough Council

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## Code of Conduct for Members

### PART 1 GENERAL PROVISIONS

#### Introduction and interpretation

This Code of Conduct was adopted by the full council at its meeting on 25 June 2012 and is effective from 1 July 2012.

As a Member you are a representative of Colchester Borough Council ("the Authority") and the public will view you as such. Therefore, your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.

This Code is consistent with the "Nolan Principles" which are set out in Appendix 1 and the provisions of S29 (1) Localism Act 2011.

In this Code-

"meeting" means any meeting of:

- (a) the Authority
- (b) the Executive of the Authority
- (c) any of the Authority's or its Executive's committees, sub-committees, joint committees, joint sub-committees or areas committees whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members
- (d) any briefings by officers and site visits organised by the Authority "relevant period" means the period of 12 months ending with the day on which you give notification to the Authority's monitoring officer of any disclosable pecuniary interests you had at the time of the notification.

"profit or gain" includes any payments or benefits in kind which are subject to Income Tax.

"beneficial interest" means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale.

"Member" includes a co-opted member.

## **1. Who does the Code apply to?**

- (1) This Code applies to all Members of the Authority including co-opted members.
- (2) It is your responsibility to comply with the provisions of this Code.

## **2. What does the Code apply to?**

- (1) You must comply with this Code whenever you –
  - (a) conduct the business of the Authority, or
  - (b) you are acting as a representative of the Authority.
- (2) This Code has effect in relation to your conduct in your official capacity.
- (3) Where you act as a representative of the Authority –
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## **3. General obligations**

- (1) You must treat others with respect.
- (2) You must uphold the law.
- (3) You must not –
  - (a) do anything which may cause the Authority to breach any of the equality enactments;
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be: –
    - (i) a complainant;
    - (ii) a witness; or
    - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a Member

(including yourself) has failed to comply with the Authority's code of conduct; or

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

#### **4. Confidential Information**

You must not –

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is –
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the Authority;
- (b) prevent another person from gaining access to information to which that person is entitled by law.

#### **5. Conferring an advantage or disadvantage**

You must -

- (a) not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) when using or authorising the use by others of the resources of the Authority -
  - (i) act in accordance with the Authority's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes);
- (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

## PART 2 MEMBERS INTERESTS

### 6. Disclosable Pecuniary Interests<sup>1</sup>

6.1 You have a Disclosable Pecuniary Interest in any business of the Authority if it is of a description set out in 6.2 below and is either:

- (a) An interest of yours; or
- (b) An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner (“known as Relevant Persons”).

6.2 A Pecuniary Interest is an interest which relates to or is likely to affect:

- (a) Any employment, office, trade, profession or vocation carried on by you or a Relevant Person for profit or gain;
- (b) Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) Any contract for goods, services or works which has not been fully discharged between you or a Relevant Person and the Authority or a body in which you or they have a beneficial interest;
- (d) A beneficial interest in any land in the Authority’s area
- (e) A licence of any land in the Authority’s area (alone or jointly with others) that you or a Relevant Person occupy for a month or longer
- (f) any tenancy where to your knowledge (i) the landlord is the Authority and (ii) the tenant is a body in which you or a Relevant Person has a beneficial interest
- (g) Any beneficial interest in securities of a body where –
  - (i) that body (to your knowledge) has a place of business or land in the area of the Authority and
  - (ii) either:

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<sup>1</sup> The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the pecuniary interests specified for the purposes of Chapter 7 of Part 1 Section 30(3) of the Localism Act 2011

- (aa) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- (bb) the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class.

## **7. Other Pecuniary Interests**

You have a pecuniary interest in any business of the Authority where it relates to or is likely to affect:

- (a) any person or body who employs or has appointed you;
- (b) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 6.2.(g) which has been fully discharged within the last 12 months;

## **8. Non-Pecuniary Interests**

**8.1** You have a non-pecuniary interest in any business of the Authority where it relates to or is likely to affect -

- (a) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
- (b) any body –
  - (i) exercising functions of a public nature;
  - (ii) directed to charitable purposes; or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); of which you are a member or in a position of general control or management;
- (c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
- (d) a decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing of a relevant person to a greater extent than the majority of:-

- (i) (in the case of authorities with electoral divisions or wards) other council taxpayers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
- (ii) (in all other cases) other council taxpayers, ratepayers or inhabitants of the Authority's area.

## **9. Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)**

- 9.1 Subject to sub-paragraphs 9.2 to 9.3, where you have a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.
- 9.2 Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the Relevant Person's Interest.
- 9.3 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 but by virtue of paragraph 12 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest you need not disclose the nature of the interest to the meeting.
- 9.4 Where you have a Pecuniary Interest in any business of the Authority and a function of the Authority may be discharged by you acting alone in relation to that business, you must ensure you notify the Authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.
- 9.5 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

## **10. Effect of Interests on participation**

### **10.1 Disclosable Pecuniary Interests**

- (a) If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:
  - (i) You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting.
  - (ii) You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Authority's proper officer.
- (b) If you have a Disclosable Pecuniary Interest in any business of the Authority you must not:
  - (i) exercise executive functions in relation to that business; and
  - (ii) seek improperly to influence a decision about that business
- (c) If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself).

## **10.2 Other Pecuniary Interests**

If you have another Pecuniary Interest in any business of the Authority which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement in the public interest and you are present at a meeting of the Authority at which such business is to be considered or is being considered you must:

- (a) disclose the existence and nature of the interest in accordance with paragraph 9.1 (but subject to paragraph 9.3 ) and;
- (b) withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from the Authority's proper officer.

## **PART 3 REGISTER OF MEMBERS' INTERESTS**

### **11. Registration of Members' Interests**

Subject to paragraph 12, you must, within 28 days of –

- (a) this Code being adopted by or applied to the Authority; or
- (b) your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the Authority

register in the Authority's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- (i) Disclosable Pecuniary Interests as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time.
- (ii) Pecuniary Interests referred to in paragraph 7 that you have.

Subject to paragraph 12, you must within 28 days of becoming aware of any new Disclosable Pecuniary Interest as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner or change to any Disclosable Pecuniary Interest registered under paragraphs 11.(a) (i) or (ii) above by providing written notification to your authority's Monitoring Officer.

### **12. Sensitive Information**

- 12.1 Where you have a Disclosable Pecuniary Interest referred to in paragraph 6 or pecuniary interest referred to in paragraph 7 and the nature of the interest is such that you and the Authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the Authority's Register then copies of the register available for inspection and any published version of the Register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.
- 12.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 12.1 is no longer sensitive information, notify the Authority's monitoring officer.

12.3 In this Code “sensitive information” means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

### **13. Register of Gifts and Hospitality**

13.1 You must within 28 days of receipt, notify the Authority’s monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the Authority.

13.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.

13.3 This duty to notify the monitoring officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

### **14. Review of Code**

14.1 This Code will be kept under annual review.

**THE NOLAN PRINCIPLES**  
**and Section 28(1) of The Localism Act 2011**

**Selflessness**

To serve only the public interest and never improperly confer an advantage or disadvantage on any person

**Integrity**

Not to place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour

**Objectivity**

Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.

**Accountability**

To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.

**Openness**

To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

**Honesty**

Not to place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

**Leadership**

Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.





## Colchester Borough Council

### Governance and Audit Committee

#### Councillor Code of Conduct

#### Arrangements for dealing with complaints

##### 1. Introduction

- 1.1 These "Arrangements" came into effect on 1 July 2012 detail the process for making a complaint that an elected or co-opted member of Colchester Borough Council or of a parish council, town council or community council (referred to as a parish council in this document) within the Borough of Colchester has failed to comply with the Councillors' Code of Conduct. It also sets out how the Borough Council will deal with allegations of a failure to comply with the Councillors' Code of Conduct.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Borough Council must have in place "Arrangements" under which allegations that a member or co-opted member of the Borough Council or of a parish council within the Borough of Colchester, has failed to comply with Councillors' Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such Arrangements must provide for the Borough Council to appoint at least 1 Independent Person, whose views must be sought by the Borough Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Borough Council at any other stage, or by a member or a co-opted member of a parish council against whom an allegation has been made. Both members and co-opted members are referred to as Councillors in this document for ease of reference.

##### 2. The Code of Conduct

- 2.1 The Borough Council has adopted a Code of Conduct for Councillors, which is published on the Borough Council's website.  
[www.colchester.gov.uk/standards](http://www.colchester.gov.uk/standards)
- 2.2 Each Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council's Code of Conduct, you should inspect

any website operated by the Parish Council or request the parish clerk to allow you to inspect the Parish Council's Code of Conduct.

### **3. Making a complaint**

3.1 If you wish to make a complaint, please email: [andrew.weavers@colchester.gov.uk](mailto:andrew.weavers@colchester.gov.uk) or write to:

The Monitoring Officer  
Colchester Borough Council  
Rowan House, 33 Sheepen Road  
Colchester, CO3 3WG.

3.2 The Monitoring Officer is a senior officer of the Borough Council who has statutory responsibility for maintaining the register of Councillors' interests and who is responsible for administering the system in respect of complaints of Councillor misconduct.

3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the Borough Council's website, next to the Code of Conduct.

3.4 Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the Councillor against whom you make the complaint, without your prior consent.

3.5 The Borough Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

3.6 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it and will keep you informed of the progress of your complaint.

3.7 The Complaints Procedure Flowchart is attached at Appendix 1.

3.8 The Borough Council has agreed a Press Policy in relation to complaints made against Councillors and this is attached at Appendix 2.

**4. Will your complaint be investigated?**

- (1) The Monitoring Officer will review every complaint received and, may consult with the Independent Person before taking a decision as to whether it:
  - (a) merits no further investigation; or
  - (b) merits further investigation; or
  - (c) should be referred to the Governance and Audit Committee,
- (2) This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the Borough Council's Assessment Criteria contained at Appendix 3. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. Where the Monitoring Officer requires additional information in order to come to a decision, he/she may come back to you for such information and may request information from the Councillor against whom your complaint is directed.
- (3) Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.
- (4) In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Councillor accepting that their conduct was unacceptable and offering an apology, or other remedial action by the Authority. Where the Councillor or the Authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.
- (5) If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.

**5. How is the investigation conducted?**

- (1) The Borough Council has adopted a procedure for the investigation of allegations, which is attached as Appendix 4 to these Arrangements.

- (2) If the Monitoring Officer decides that a complaint merits further investigation, they may appoint an Investigating Officer, who may be another senior officer of the Borough Council, an officer of another Authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether they need to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents needs to be seen, and who needs to be interviewed.
- (3) The Investigating Officer or Monitoring Officer will normally write to the Councillor against whom you have complained and provide them with a copy of your complaint and ask the Councillor to provide their explanation of events, and to identify what documents are required and who needs to be interviewed. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the Councillor might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Councillor, or delay notifying the Councillor until the investigation has progressed sufficiently.
- (4) At the end of their investigation, the Investigating Officer or Monitoring Officer will produce a draft report ("the Investigation Report") and will send copies of that draft report, in confidence, to you and to the Councillor concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.
- (5) Having received and taken account of any comments which you may make on the draft Investigation Report. Where an Investigating Officer has been appointed the Investigating Officer will send their final report to the Monitoring Officer.

**6. What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

- (1) If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and, if satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Councillor concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that no further action is required, and give you both a copy of the Investigation Final Report.

(2) If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report.

**7. What happens if the Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

(1) If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing before the Hearings Sub-Committee or in consultation with the Independent Person seek an informal resolution.

(a) Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Councillor accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Borough Council's Governance and Audit Committee (and the Parish Council) for information but will take no further action.

(b) Hearing

If the Monitoring Officer considers that informal resolution is not appropriate, or the Councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Hearings Sub-Committee which will conduct a hearing before deciding whether the Councillor has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Councillor.

The Borough Council has agreed a procedure for hearing allegations, which is attached as Appendix 5 to these Arrangements.

At the hearing, the Investigating Officer or the Monitoring Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Hearings Sub-Committee. The Councillor will then have an opportunity to give their evidence, to call witnesses and to make representations to the Hearings Sub-Committee as to why they consider that they did not fail to comply with the Code of Conduct.

The Hearings Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the Councillor did not fail to comply with the Code of Conduct, and dismiss the complaint. If the Hearings Sub-Committee concludes that the Councillor did fail to comply with the Code of Conduct, the Chair will inform the Councillor of this finding and the Hearings Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the Councillor's failure to comply with the Code of Conduct. In doing this, the Hearings Sub-Committee will give the Councillor an opportunity to make representations to the Hearings Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

**8. What action can the Hearings Sub-Committee take where a Councillor has been found to have failed to comply with the Code of Conduct?**

8.1 The Borough Council has delegated to the Hearings Sub-Committee its powers to take action in respect of individual Councillors as may be necessary to promote and maintain high standards of conduct.

Accordingly, the Hearings Sub-Committee may: -

- (a) Report its findings to Council (or to the Parish Council) for information;
- (b) Recommend to Council (or to the Parish Council) that the Councillor be issued with a formal censure or be reprimanded
- (c) Recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that

the Councillor be removed from any or all Committees or Panels of the Council;

- (d) Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- (e) Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Councillor;
- (f) Recommend to Council to remove (or recommend to the Parish Council that the Councillor be removed) from all outside appointments to which they have been appointed or nominated by the Council (or by the Parish Council);
- (g) Recommend to Council to withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the Councillor by the Council, such as a computer, website and/or email and internet access; or
- (h) Recommend to Council to exclude (or recommend that the Parish Council exclude) the Councillor from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Panel meetings.

8.2 The Hearings Sub-Committee has no power to suspend or disqualify a Councillor or to withdraw a Councillor's basic allowance or any special responsibility allowances.

8.3 Any actions recommended by the Hearings Sub-Committee should be proportionate and commensurate with the circumstances of the particular case.

**9 What happens at the end of the hearing?**

9.1 At the end of the hearing, the Chair will state the decision of the Hearings Sub-Committee as to whether the Councillor failed to comply with the Code of Conduct and as to any actions which the Hearings Sub-Committee resolves to take.

9.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Sub-Committee, and send a copy to you, to the Councillor (and to the Parish Council), make that decision notice available for public

inspection and report the decision to the next convenient meeting of the Council.

## **10 Who are the Hearings Sub-Committee?**

- 10.1 The Sub-Committee comprises Councillors who are members of the Governance and Audit Committee.
- 10.2 The Governance and Audit Committee has decided that it will comprise a maximum of five Councillors and will comprise Councillors drawn from all political groups. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council. If the Councillor complained about is a member of a Parish Council a parish Councillor who is a co-opted member of the Governance and Audit Committee will also be invited to attend the Sub-Committee.
- 10.3 An Independent Person will also be invited to attend all meetings of the Hearings Sub-Committee and their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the Councillor's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **11 Who are the Independent Persons?**

- 11.1 The Independent Persons are persons who has applied for the post following advertisement of a vacancy for the post and is appointed by a positive vote from a majority of all the members of the Borough Council.
- 11.2 A person cannot be "independent" if they:
  - (a) are, or have been within the past 5 years, a member, co-opted member or officer of the Borough Council;
  - (b) (are or have been within the past 5 years, a member, co-opted member or officer of a parish council within the Borough of Colchester), or
  - (c) are a relative or close friend, of a person within paragraph (a) or (b) above. For this purpose, a "relative" means:
    - (i) spouse or civil partner;

- (ii) living with the other person as husband and wife or as if they were civil partners;
- (iii) grandparent of the other person;
- (iv) a lineal descendent of a grandparent of the other person;
- (v) a parent, sibling or child of a person within paragraphs (a) or (b); above or
- (vi) a spouse or civil partner of a person within paragraphs (iii), (iv) or (v) above; or
- (vii) living with a person within paragraphs (iii), (iv) or (v) above as husband and wife or as if they were civil partners.

## **12. Revision of these Arrangements**

The Borough Council may by resolution agree to amend these Arrangements, and has delegated to the Chair of the Hearings Sub-Committee the right to depart from these Arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **13. Appeals**

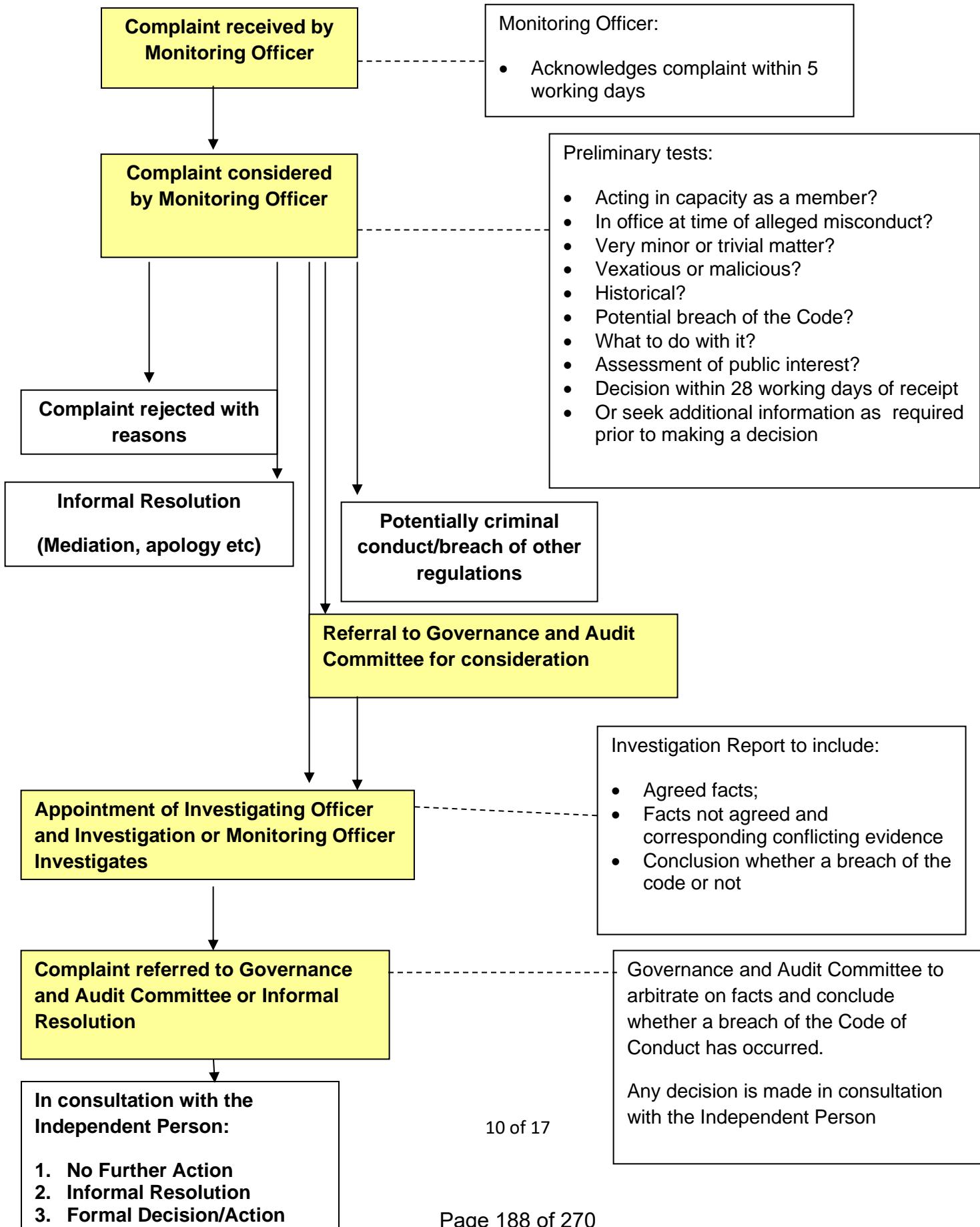
13.1 There is no right of appeal for you as complainant or for the Councillor against a decision of the Monitoring Officer or of the Hearings Sub-Committee.

13.1.1 If you feel that the Borough Council has failed to deal with your complaint properly, you may make a complaint to the Local Government and Social Care Ombudsman.

## **14. Review**

These Arrangements will be kept under annual review by the Governance and Audit Committee.

## Complaints Procedure Flowchart



**Colchester Borough Council**

**Press Policy**

**Complaints against Members**

This Policy sets out how the Borough Council will respond to press enquiries into a complaint made against Councillor(s). This includes Borough Councillors, Parish, Town and Community Councillors.

We like to be as helpful as possible to the press and we will confirm, when requested by a journalist:

- the name of a Councillor(s) involved in an ongoing or past investigation
- the type of person who made the allegation – whether they are a member or Officer of the Authority, or a member of the public
- part of the Code of Conduct potentially breached
- whether the case was referred for investigation and, if not, the reason it was not referred
- approximate dates of when the allegation was received and the date of when a decision was made on whether or not to investigate
- the outcome of any investigation, on issue of the final report

Please note that we will only respond to queries about specific Councillors.

We will not comment on complaints received until a decision has been made on whether a complaint will be investigated; we allow three working days from the date of that decision before confirming it to the press.

We will confirm the outcome of an investigation three working days after the final report has been issued. This policy ensures that the relevant parties involved in the complaint and investigation are notified before the press.

We will always stress that a complaint is just that: while an investigation is ongoing, no decision is made regarding a Councillor's guilt or otherwise.

**Colchester Borough Council**

**STANDARDS COMPLAINTS ASSESSMENT CRITERIA**

**Complaints which would not normally be referred for investigation**

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; e.g. that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
5. It is about someone who is no longer a Councillor; or
6. There is insufficient information available for a referral; or
7. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc; or
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
9. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Governance and Audit Committee; or
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
11. Where the Councillor complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

**Complaints which may be referred to the Governance and Audit Committee**

1. It is serious enough, if proven, to justify the range of actions available to the Governance and Audit Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or

3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to investigate; or
4. The complaint is about a high-profile Councillor such as the Leader of the Council and it would be difficult for the Monitoring Officer to investigate; or
5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him to investigate.

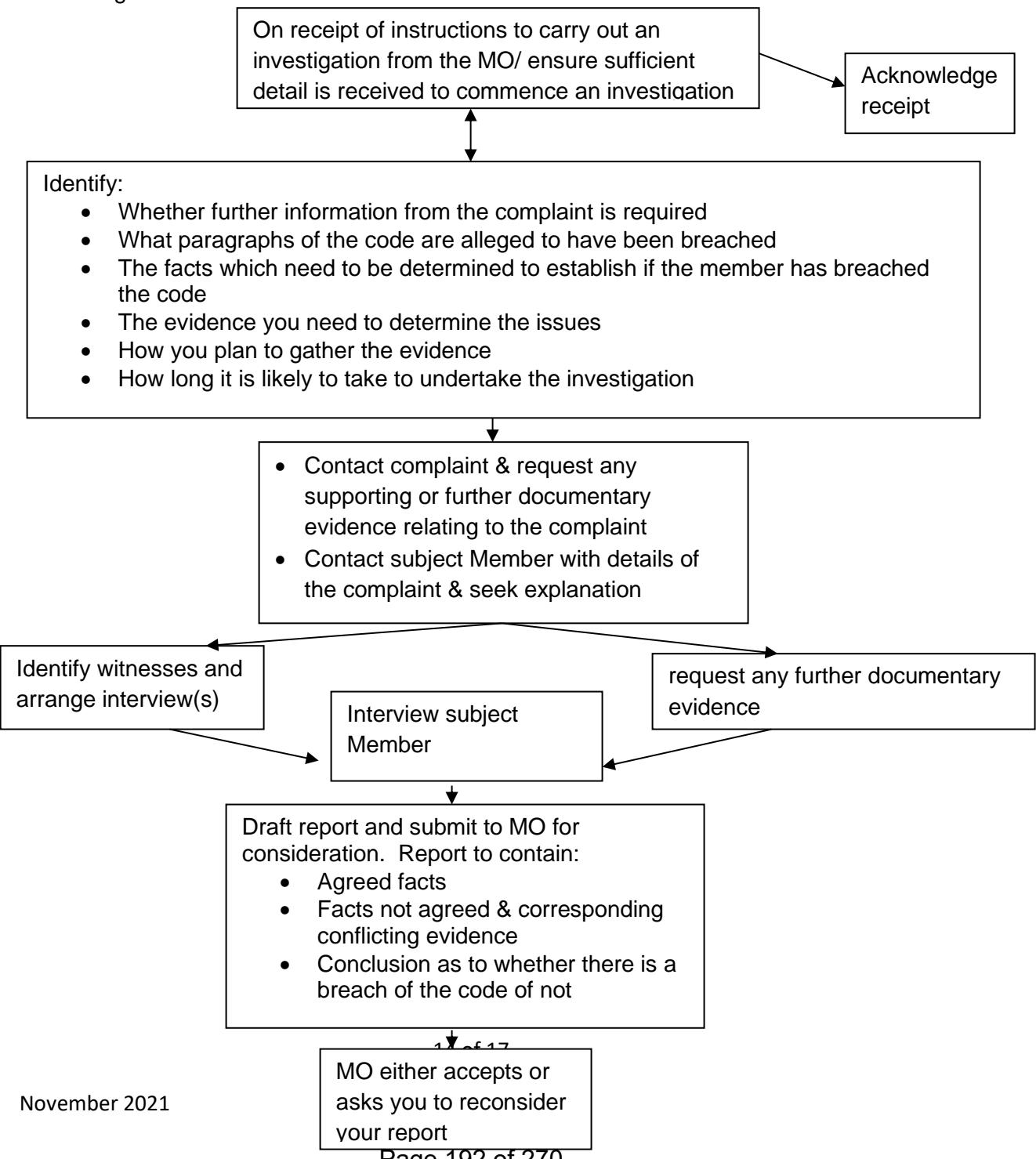
**Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and Councillors' time. This is an important consideration where the complaint is relatively minor.**

## STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

### Investigation Procedure

You should maintain a written record to demonstrate what was considered at the start of each investigation and plan how you intend to carry out the investigation, the paragraphs of the Code that may have been breached, the facts you need to determine to establish, the evidence you will need, how you plan to gather the evidence and how long it will take to conclude your investigation. Remember there is no provision in the Localism Act 2011 compelling Members or witnesses to co-operate with your investigation.

A written Investigation Report will need to be prepared for consideration by the Council's Monitoring Officer.



**Colchester Borough Council**  
**GOVERNANCE AND AUDIT COMMITTEE**  
**HEARINGS SUB-COMMITTEE PROCEDURE**

<u>Item No.</u>	<u>Procedure</u>
1.	<p style="text-align: center;"><b><u>Quorum</u></b></p> <p>1.1. Three members must be present throughout the hearing to form a quorum.</p> <p>1.2. Where the complaint refers to a Parish Councillor a non-voting Parish member of the Governance and Audit Committee may be present.</p> <p>1.3. An Independent Person shall also be invited to attend.</p> <p>1.4. The Sub-Committee shall nominate a Chair for the meeting</p>
2.	<p style="text-align: center;"><b><u>Opening</u></b></p> <p>2.1 The Chair explains the procedure for the hearing and reminds all parties to turn off mobile phones etc.</p> <p>2.2 The Chair asks all present to introduce themselves.</p> <p>2.3 The Councillor will be asked whether they wish to briefly outline their position.</p>
3.	<p style="text-align: center;"><b><u>The Complaint</u></b></p> <p>3.1 The Investigating Officer shall be invited to present their report including any documentary evidence or other material (and to call witnesses as required by the Investigating Officer). This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.</p> <p>3.2 The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer. (This is the Councillor's opportunity to ask questions rising from the Investigators report and not to make a statement).</p>

	3.3 Members of the Sub-Committee may question the Investigating Officer upon the content of their report and/or any witnesses called by the Investigating Officer
4.	<p style="text-align: center;"><b><u>The Councillor's case</u></b></p> <p>4.1 The Councillor against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required by the Councillor or their representative).</p> <p>4.2 The Investigating Officer may question the Councillor and/or any witnesses.</p> <p>4.3 Members of the Sub-Committee may question the Councillor and /or any witnesses.</p>
5.	<p style="text-align: center;"><b><u>Summing Up</u></b></p> <p>5.1 The Investigating Officer may sum up the Complaint.</p> <p>5.2 The Councillor (or their representative) may sum up their case.</p>
6.	<p style="text-align: center;"><b><u>Decision</u></b></p> <p>6.1 Members of the Sub-Committee will deliberate in private to consider the complaint in consultation with the Independent Person prior to reaching a decision.</p> <p>6.2 Upon the Sub-Committee's return the Chair will announce the Sub-Committee's decision in the following terms: -</p> <p>6.2.1 The Sub-Committee decides that the Councillor has failed to follow the Code of Conduct; or</p> <p>6.2.2 The Sub-Committee decides that the Councillor has not failed to follow the Code of Conduct</p> <p>6.3 The Sub-Committee will give reasons for their decision</p> <p>6.4 If the Sub-Committee decides that the Councillor has failed to follow the Code of Conduct the Sub-Committee will consider any representations from the Investigator and/or the Councillor as to:</p> <p>6.4.1 Whether any action should be taken and</p> <p>6.4.2 What form any action should take</p>

	<p>6.5 The Sub-Committee will then deliberate in private to consider what action if any should be taken in consultation with the Independent Person.</p> <p>6.6 On the Sub-Committee's return the Chair will announce the Sub-Committee's decision (in relation to a Parish Councillor a recommendation to the Parish Council).</p> <p>6.7 The Sub-Committee will consider whether it should make any recommendations to the Borough Council (or in relation to a Parish Councillor to the Parish Council) with a view to promoting high standards of conduct among Councillors.</p> <p>6.8 The Chair will confirm that a full written decision shall be issued within 7 working days following the hearing and that the Sub-Committee's findings to be published.</p>



## Local Government Association

## Model Councillor Code of Conduct 2020

### **Joint statement**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## **Introduction**

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit- for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

## **Definitions**

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring

Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

#### **2. Bullying, harassment and discrimination**

##### **As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

**As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

#### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a councillor:**

### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a councillor:**

### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport

- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

**As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **Protecting your reputation and the reputation of the local authority**

## **9. Interests**

**As a councillor:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

### **As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it ]

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied
9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interestYou may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.  
If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it ]

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licenses</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registrable Interests**

You must register as an Other Registerable Interest :

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management

## Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***



# Governance and Audit Committee

Item

**12**

23 November 2021

Report of **Monitoring Officer**

Author **Andrew Weavers**  
 **282213**

**Title** **Review of Local Code of Corporate Governance**

**Wards affected** Not applicable

## 1. Executive Summary

- 1.1 This report requests the Committee to review the Local Code of Corporate Governance for 2021/22. The Local Code of Corporate Governance is how the Council demonstrates that its structures comply with the recognised principles of good governance.
- 1.2 The report also recommends that Full Council includes the Code in its Policy Framework which comprises all of the Authority's key polices.

## 2. Recommended Decision

- 2.1 To review the updated Local Code of Corporate Governance for 2021/22.
- 2.2 To recommend to Full Council that it be approved for inclusion in the Council's Policy Framework.

## 3. Background

- 3.1 In 2007 CIPFA (The Chartered Institute of Public Finance and Accountancy) and SOLACE (The Society of Local Authority Chief Executives) issued "Delivering Good Governance in Local Authorities", a guide to ensuring that local authorities are appropriately governed. This was updated in April 2016.
- 3.2 Governance is defined as the systems and processes, and cultures and values, by which an organisation is directed and controlled and through which it accounts to, engages with and, where appropriate, leads their communities. It is about how Colchester Borough Council ensures that it is doing the right things, in the right way, for the right people, in a timely, inclusive, open and accountable manner
- 3.3 The Council strives to meet the highest standards of corporate governance to help ensure it meets its objectives. Councillors and Officers are responsible for putting in place proper arrangements for the governance of the Council's affairs and the stewardship of the resources at its disposal.
- 3.4 Therefore a Local Code of Corporate Governance has been developed to ensure that the Council complies with the principles set out in the CIPFA/SOLACE guidance. The Local Code is reviewed annually, to ensure that the Council is still satisfying the principles, and

forms part of the Council's Policy Framework. The Committee last considered the Local Code at its meeting on 24 November 2020.

3.5 The guidance identifies six Core Principles against which local authorities should review their existing corporate governance arrangements and develop and maintain a local code of governance. The principles are;

- Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area;
- Councillors and officers working together to achieve a common purpose with clearly defined functions and roles;
- Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour;
- Taking informed and transparent decisions which are subject to effective scrutiny and managing risk;
- Developing the capacity and capability of members and officers to be effective; and
- Engaging with local people and other stakeholders to ensure robust public accountability.

3.6 The six core principles each have a number of supporting principles, which in turn have a range of specific requirements that apply across the range of Council business.

3.7 The Local Code, and the Council's compliance with the principles, have been reviewed, and attached at Appendix 1 is the updated Local Code of Corporate Governance for 2021/22. This sets out the six principles and elaborates on how the Council is meeting them, what source documents or processes evidence this and in addition highlights any further or ongoing work. This in turn links into the Council's Annual Governance Statement.

3.8 The Local Code has been updated to reflect the strategic priorities for investment and the covid recovery programme, along with the commitment to continue developing hybrid meeting processes, to enable greater public engagement. Otherwise, there have been no significant changes to the Local Code following the review, and it is considered still fit for purpose.

#### **4. Strategic Plan References**

4.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan priorities to set out the direction and future potential for our Borough.

#### **5. Publicity Considerations**

5.1 The Local Code of Corporate Governance will be published on Corporate Governance section of the Council's website.

#### **6. Financial, Equality, Diversity and Human Rights, Consultation, Health, Wellbeing and Community Safety, Health and Safety, Risk Management and Environmental and Sustainability Implications**

6.1 None.



# Code of Corporate Governance 2021/22

A guide to the Council's compliance with the six principles of Corporate Governance.

November 2021

# Contents

# Page

INTRODUCTION	2
PRINCIPLE ONE	3
PRINCIPLE TWO	6
PRINCIPLE THREE	13
PRINCIPLE FOUR	17
PRINCIPLE FIVE	21
PRINCIPLE SIX	25

## THE PRINCIPLES OF CORPORATE GOVERNANCE

- Core Principle 1** *Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area.*
- Core Principle 2** *Members and officers working together to deliver the objectives of the Strategic Plan (the common purpose) with clearly defined functions and roles.*
- Core Principle 3** *Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.*
- Core Principle 4** *Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.*
- Core Principle 5** *Developing the capacity and capability of members and officers to be effective.*
- Core Principle 6** *Engaging with local people and other stakeholders to ensure robust public accountability.*

## CODE OF CORPORATE GOVERNANCE

### INTRODUCTION

*“Governance is about how local government bodies ensure that they are doing the right things, in the right way for everyone, in a timely, inclusive, open, honest and accountable manner.*

*It comprises the systems and processes, and cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and where appropriate, lead their communities”.*

#### Delivering Good Governance in Local Authorities (CIPFA/SOLACE 2007)

The CIPFA/SOLACE guidance “Delivering Good Governance in Local Authorities” identified six Core Principles against which local authorities should review their existing corporate governance arrangements and develop and maintain a local code of governance. These principles are:

1. *Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area*
2. *Members and officers working together to achieve a common purpose with clearly defined functions and roles*
3. *Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour*
4. *Taking informed and transparent decisions which are subject to effective scrutiny and managing risk*
5. *Developing the capacity and capability of members and officers to be effective*
6. *Engaging with local people and other stakeholders to ensure robust public accountability.*

This Code of Governance has been prepared in accordance with the Guidance and will be reviewed by the Governance and Audit Committee on an annual basis.

Additionally authorities are required to prepare and publish an Annual Governance Statement in accordance with this framework under Regulation 4(2) of the Accounts and Audit (Amendment) (England) Regulations 2011. The Annual Governance Statement is a key corporate document. The Chief Executive and the Leader of the Council have joint responsibility as signatories for its accuracy and completeness.

## PRINCIPLE ONE

### Core Principle 1 – Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area

**Our aims in relation to focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area are to:**

- 1.1 Exercise strategic leadership by developing and clearly communicating the authority's purpose, vision and its intended outcome for citizens and service users
- 1.2 Ensure users receive a high quality service whether directly, or in partnership, or by commissioning
- 1.3 Ensure that the authority makes best use of resources and that tax payers and service users receive excellent value for money

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
1.1.1 Develop and promote the Council's purpose and vision	<p>The <a href="#">Strategic Plan 2020-23</a> sets out how the Council will address the key challenges facing the borough through five strategic priority themes. It was approved by full Council in October 2020. In July 2021 the Cabinet agreed the <a href="#">2021/22 strategic priorities for investment and Covid recovery</a>.</p> <p>The Council's commercial programme, including the set-up of three trading subsidiaries – Amphora Trading, Homes and Energy – within Colchester Commercial (Holdings) Ltd (CCHL) holding company.</p> <p>Partnership working with local, regional and national stakeholders.</p> <p>Service Plans.</p> <p>ICT, Communication and Technology Strategy.</p> <p>Council website – <a href="http://www.colchester.gov.uk">www.colchester.gov.uk</a>.</p>	<p>Development and monitoring of actions to support delivery of the <a href="#">Strategic Plan 2020-23</a>, including the <a href="#">2020/21 'year 1' results</a> and the <a href="#">2021/22 strategic priorities for investment and Covid recovery</a>.</p> <p>The development of the <a href="#">CCHL/Amphora companies</a>, and the implementation of their high-level goals, financial targets and management agreements.</p> <p>Monitoring includes the <a href="#">CCHL Annual Report 2020/21</a>.</p> <p>Encouraging self-serve and online options to maximise use of resources</p>

	<p>Local Research and Statistics data on website. The Constitution and its committees and panels. Core values of 'customer, business and culture' with identified attitudes and behaviours</p> <p>Key Performance Indicators (KPIs) reported and published to show achievements against targets</p> <p>The Council's strategies and policies.</p> <p>Awards and accreditations - <a href="#">council-wide</a> and <a href="#">individual services</a>.</p> <p><a href="#">Publication Scheme/Transparency Code</a>.</p> <p>The 'Service Futures' programme which took a fundamental review of Council services and how they are delivered.</p>	<p>Council's Research and Change Team review customer demand and feedback, statistics and research to support business improvement.</p> <p>Council website – continuing its development to support the Council's vision and objectives, including focus on online self-serve options.</p> <p><a href="#">Digital Access Team</a> – external funding secured to help customers get online so they can access self-serve options and information to support themselves and the digital opportunities available if customers use the web.</p>
<p>1.1.2 Review on a regular basis the Council's vision for the local area and its impact on the authority's governance arrangements</p>	<p>Strategic Plan and its Action Plan.</p> <p>The Constitution and its committees and panels.</p> <p>Medium Term Financial Strategy and Capital Programme.</p> <p>Local Code of Corporate Governance.</p> <p>Annual Governance Statement and Assurance Framework.</p> <p>Risk Register.</p>	<p>Development and monitoring of actions to support delivery of the <a href="#">Strategic Plan 2020-23</a>, including the <a href="#">2020/21 'year 1' results</a> and the <a href="#">2021/22 strategic priorities for investment and Covid recovery</a>.</p> <p>Local Code of Corporate Governance updated as required by CIPFA Guidance</p> <p>Terms of Reference of the Policy Panel reviewed and changed to ensure the Panel considers issues at the request of Cabinet and Portfolio Holders and must seek approval from Cabinet on whether</p>

		and how issues proactively identified by the Panel are examined.
<b>In order to achieve our aims we have/will:</b>	<b>Source documents/Processes</b>	<b>Further work ongoing</b>
1.1.3 Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all parties	Strategic Plan 2020-23 Partners were key contributors in the Peer Challenge Partnership Strategy Council praised by <a href="#">All-Party Parliamentary Group Inquiry into partnership working</a> Safer Colchester Partnership – annual plan, website, strategic and operational groups Working with a range of partners to provide customer-facing services.	<a href="#">Colchester Ambassadors</a> – key borough businesses and their promotional work.  Crime and Disorder Committee examines the work of the Safer Colchester Partnership.
1.1.4 Publish an annual report on a timely basis to communicate the authority's activities and achievements, its financial position and performance	Strategic Plan actions and monitoring of delivery Statement of Accounts Council's website <a href="http://www.colchester.gov.uk">www.colchester.gov.uk</a> Awards and accreditations, Performance and Improvement sections of the website Performance Management Board ICT, Communication and Technology Strategy The Council's Forward Plan Publication Scheme/Transparency Code All <a href="#">Annual Reports</a> into one place on the website for improved transparency and open access. An online ' <a href="#">Council data</a> ' library gives access to view and download a range of council databases, performance data and information	
1.2.1 Decide how the quality of service for users is to be measured and make sure that	Performance reporting to Senior Management , Scrutiny Panel and Cabinet	Research and Change Team review customer demand and feedback,

the information needed to review service quality effectively and regularly is available	Consultation – “Consultations, Research and Statistics” section on website Mosaic and other customer research tools Annual Monitoring Report External Audit annual audit letter and recommendations Local Government and Social Care Ombudsman – Annual Review Letter Review of Complaints Procedure	statistics and research to encourage services to make informed choices based on fact, and support process improvement work council-wide.  'Customer' strand of the Council's <a href="#"><u>Customer Service Standard</u></a> .  'Customers and Partnerships' strand of Senior Management Team meetings – this meeting aims to ensure we are focused on our customers and looking for partnership opportunities.  Feedback tab on webpages  <a href="#"><u>'Help us get it right'</u></a> options for customers
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In order to achieve our aims we have/will:	Source documents/processes	Further work ongoing
1.2.2 Put in place effective arrangements to identify and deal with failure in service delivery	Performance reporting and performance indicators Complaints Procedure Internal Audit Process and annual work programme Chief Operating Officer Performance Management Board External Auditor's annual audit letter and recommendations The Constitution, Committees and Panels Risk Management Strategy Ethical Governance Policies Annual Governance Statement Action Plan Review of Complaints Procedure	Performance Management Board addresses and manages performance and financial issues and meets monthly. Preparation for Budget Group is also managed here.  <u>'Help us get it right'</u> options for customers
1.3.1 Decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions.	Performance Reporting Performance Management Board Environmental Sustainability Strategy/Actions External Auditor's annual audit letter and recommendations Statement of Accounts Annual Treasury Strategy Statement North Essex Parking Partnership annual report Report templates – financial considerations Monitoring of commercial performance Publication Scheme/Transparency Code Sustainability assessments for Local Plan	Building a sustainable commercial services arm for the Council – CCHL/Amphora trading companies.  The Council has declared a Climate Emergency and has established an Environment and Sustainability Committee. This is an advisory Panel to Cabinet looking at how the Council should respond to the climate emergency.

		All Council decision making reports require an assessment of the environmental and sustainability implications of the decision.	
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## PRINCIPLE TWO

**Members and officers working together to deliver the objectives of the Strategic Plan (the common purpose) with clearly defined functions and roles.**

**Our aims in relation to Members and Officers working together to achieve a common purpose with clearly defined functions and roles are to:**

- 2.1 Ensure effective leadership throughout the authority and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function
- 2.2 Ensure that a constructive working relationship exists between authority members and officers and the responsibilities of members and officers are carried out to a high standard
- 2.3 Ensure relationships between the authority, its partners and the public are clear so that each knows what to expect of the other

<b>In order to achieve our aims we have/will:</b>	<b>Source documents/Processes</b>	<b>Further work ongoing</b>
2.1.1 Set out a clear statement of the respective roles and responsibilities of the executive and of the executive's members individually and the authority's approach towards putting this into practice	Constitution (Cabinet terms of reference) Record of decisions and supporting materials Member/Officer Protocol Member Training and Development Senior officer training Member role profiles Committee and Councillor area on the Council website Publication Scheme/Transparency Code	The Constitution will continue to be reviewed on a rolling basis.
2.1.2 Set out a clear statement of the respective roles and responsibilities of other authority members, members generally and of senior officers	Constitution (Statutory Officer positions, Terms of Reference for Committees, Member roles) Protocols on planning, the representational role of Members, Chairmen, Officer/Members Schemes of Delegation Terms and Conditions of Employment Member role profiles	.

<b>In order to achieve our aims we have/will:</b>	<b>Source documents/Processes</b>	<b>Further work ongoing</b>
2.2.2 Make the chief executive or equivalent responsible and accountable to the authority for all aspects of operational management	<p>Development of the Committee and Councillor area on the Council website provides more complete and easily accessible information about Councillors and the Council's decision making processes.</p> <p>Chief Executive designated Head of Paid Service Constitution (Head of Paid Service responsibilities)</p> <p>Conditions of Employment</p> <p>Schemes of Delegation</p> <p>Job Accountability Statement /Person Specification</p> <p>Signature on Annual Governance Statement</p>	<p>The Constitution will continue to be reviewed on a rolling basis.</p> <p>Support for this from Chief Operating Officer</p>
2.2.3 Develop protocols to ensure that the leader and chief executive (or equivalent) negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained	<p>Constitution</p> <p>Member/Officer Protocol</p> <p>Regular 1:2:1s</p>	<p>The Constitution will continue to be reviewed on a rolling basis.</p> <p>The development of the CCHL/Amphora companies, and the implementation of their high-level goals, financial targets and management agreements.</p>
2.2.4 Make a senior officer (usually the section 151 officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control	<p>Strategic Finance Manager is the Council's Chief Financial Officer (S151 Officer).</p> <p>Constitution</p> <p>Job Accountability Statement / Person Specification</p> <p>S151 Officer Protocol</p> <p>Report template includes financial implications before report considered by Members</p> <p>Officer Pay Policy agreed by Full Council</p>	

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.2.5 Make a senior officer (other than the responsible financial officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes, regulations are complied with (usually the Monitoring Officer)	Strategic Governance Manager is the Council's Monitoring Officer Monitoring Officer Protocol Job Accountability Statement / Person Specification Report template requires that Legal Services are consulted before a report is considered by Members	
2.3.1 Develop protocols to ensure effective communication between members and officers in their respective roles	Member / Officer Protocol Planning Procedures Code of Practice Outside Bodies advice given to Members Member and Officer Codes of Conduct	Portfolio Holder briefings
2.3.2 Set out the terms and conditions for remuneration of members and officers and an effective structure for managing the process including an effective remuneration panel (if applicable)	Pay and conditions policies and practices Independent Remuneration Panel Terms of Reference and Reports Regular liaison meeting with Unison Officer Pay Policy agreed by Full Council	
2.3.3 Ensure that effective mechanisms exist to monitor service delivery	Performance reporting and performance indicators Complaints Procedure Assistant Directors monitoring Service Plans Performance Management Board Performance management system Scrutiny Panel Annual Governance Statements for the Council, Colchester and Ipswich Museums Service and North Essex Parking Partnership Publication Scheme/Transparency Code	Customers and Partnerships' strand of Senior Management Team meetings Customer insight work

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.3.4 Ensure that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated	Strategic Plan underpinned by a review of all existing consultation work. Medium Term Financial Strategy Performance reporting and indicators Council Website ICT, Communication and Technology Strategy News releases, e-newsletters and social media Customer insight groups Service Reviews	Policy Panel set up to provide legislative, improvement and policy advice to Cabinet and Portfolio Holders on issues that may affect executive functions.  Environment and Sustainability Panel set up on the same basis as the Policy Panel, but to provide Colchester's response to the climate emergency.  Cabinet identifying and resourcing new strategic priorities.
2.3.5 When working in partnership ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the authority	Constitution Individual Partnership Agreements Service Level Agreements Advice given to Members in relation to outside bodies Partnership Strategy	Scrutiny Panel work programme includes review of partnership arrangements, with presentations from partners at Scrutiny
2.3.6 When working in partnership: <ul style="list-style-type: none"> <li>• ensure that there is clarity about the legal status of the partnership</li> <li>• ensure that representatives or organisations both understand and make clear to all other partners the extent of their authority to bind their organisation to partner decisions.</li> </ul>	Constitution Individual Partnership Agreements Service Level Agreements Advice given to Members in relation to outside bodies Partnership Strategy Monitoring Officer role and protocol	Customers and Partnerships' strand of Senior Management Team meetings

## PRINCIPLE THREE

**Core Principle 3 – Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour**

**Our aims in relation to promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour are to:**

- 3.1 Ensuring authority members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance
- 3.2 Ensuring that organisational values are put into practice and are effective

<b>In order to achieve our aims we have/will:</b>	<b>Source documents/Processes</b>	<b>Further work ongoing</b>
3.1.1 Ensure that the authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect	Constitution Chief Executive's and Leader's blog on intranet Performance reporting Governance and Audit Committee has an overall view of conduct issues established by its terms of reference Member and Officer Codes of Conduct Member/Officer Protocol Whistleblowing Policy Anti-Fraud and Corruption Policy Freedom of Information Policy statement and publication scheme Monitoring Officer and S151 Officer Protocols Localism Act Member conduct regime Annual review of Ethical Governance policies Peer Challenge	Staff survey and taking action on its findings  Leadership Development Programme led by Executive Management Team  Social media, including Yammer  Regular staff news bulletins by email  Information and videos on intranet  Employee Assistance Programme  Staff Wellbeing Champions and Mental Health First Aiders

<b>In order to achieve our aims we have/will:</b>	<b>Source documents/Processes</b>	<b>Further work ongoing</b>
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3.1.1 continued	Planning Procedures Code of Practice Officer Register of Gifts and Hospitality Officer voluntary register of interests Members' Register of Interests Website and intranet Portfolio Holder monthly sessions with senior officers "Corporate Governance" section on the Council's website bringing all relevant information together under one heading 'Council data' online resource	
3.1.2 Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocols	Member and Officer Codes of Conduct Performance management system Complaints procedures Anti-fraud and Corruption Policy Member/Officer Protocol Induction for new Members and staff Member Development Programme Officer training on Member/ officer relationship Whistleblowing Policy Information and Communication Technology ICT Security Policy Safeguarding Policy Intranet Annual review of Ethical Governance policies Review of Complaints Procedure	Embedding the Council's core values of 'customer, business and culture' with identified attitudes and behaviours.  The Job Accountability Statement/Person Specification template highlights the core values to applicants, and the staff appraisal scheme makes how you conduct yourself against the values, attitudes and behaviours to be equally important to achieving the SMART objectives that apply to the role.

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
	Member and Officer Codes of Conduct	

3.1.3 Put in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice	Equality and Diversity training for Members and Officers Financial Procedure Rules, Contract Procedure Rules Ethical Governance policies Registers of Interests (Officers and Members) Services and processes are underpinned by Equality Impact Assessments Equality Objectives Officer induction and training Annual review of Ethical Governance Policies Job Accountability Statements include whether or not a role is politically restricted	Response to consultation on revised Member Code of Conduct.
3.2.1 Develop and maintain shared values including leadership values both for the organisation and staff reflecting public expectations and communicate these with members, staff, the community and partners	Member and Officer Codes of Conduct Strategic Plan, objectives and priorities in place and shared Performance reporting Strategic Plan Action Plan – progress is reported to scrutiny on a half-yearly basis	<a href="#"><u>People Strategy</u></a> actions  Embedding the Council's core values of 'customer, business and culture' with identified attitudes and behaviours
3.2.2 Put in place arrangements to ensure that procedures and operations are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice	Contract Procedure Rules Ethical Governance Policies Member and Officer Codes of Conduct Monitoring of the above takes place by the Governance and Audit Committee ICT Security Policy Annual reporting to Governance and Audit Committee	

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing

3.2.3 Develop and maintain an effective Standards Committee	Member conduct issues (standards) within remit of Governance and Audit Committee Agenda and Minutes Terms of Reference Regular meetings Member training on Code of Conduct Work programme	Annual review of the Localism Act arrangements by the Governance and Audit Committee.
3.2.4 Use the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority	Member and Officer Codes of Conduct Strategic Plan, objectives and priorities in place and being shared Performance Appraisals Portfolio Holder briefing with Senior Managers Policy Framework	Embedding the Council's core values of 'customer, business and culture' with identified attitudes and behaviours
3.2.5 In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively	Values agreed with each partner Partnership Strategy	Annual report to Cabinet on Members' appointments to outside bodies, including feedback on outcomes, issues and engagement  Scrutiny Panel work programme includes review of partnership arrangements, with presentations from partners at Scrutiny

## PRINCIPLE FOUR

<b>Core Principle 4 – Taking informed and transparent decisions which are subject to effective scrutiny and managing risk</b>		
<b>Our aims in taking informed and transparent decisions which are subject to effective scrutiny and managing risk are to:</b>		
<b>In order to achieve our aims we have/will:</b>	<b>Source documents/Processes</b>	<b>Further work ongoing</b>
4.1.1. Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the organisation's performance overall and of any organisation for which it is responsible	Scrutiny is supported by robust evidence and data analysis Agenda and Minutes Scrutiny Panel Work programme Successful outcome of reviews Ownership of work programme Training for scrutiny chairman and members Scrutiny of partners and joint projects	Scrutiny Panel work programme includes review of partnership arrangements, with presentations from partners at Scrutiny Specialised training provided to Scrutiny members
4.1.2 Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based	The Constitution, Committees and Panels Decision making protocols Record of decisions and supporting materials Report template Decision list published (members) Live streaming of meetings via YouTube Website	In person decision making meetings have been restored. Many meetings have been live streamed through YouTube leading to greater public engagement.

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.1.3 Put in place arrangements to safeguard members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice	Member and Officer Codes of Conduct Member and Officer Registers of Interests Declaration of Interests at meetings Code of Conduct guidance and training provided to Members and Officers Planning Procedures Code of Practice Governance and Audit Committee (responsibility) and Monitoring Officer (reports) Politically restricted posts Ethical Governance Policies, and annual review Secondary Employment Policy	
4.1.4 Develop and maintain an effective Audit Committee (or equivalent) which is independent or make other appropriate arrangements for the discharge of the functions of such a committee	Audit issues within remit of Governance and Audit Committee Member Development Programme Agenda and Minutes The Constitution	Continue to review Member training programme with specific reference to audit and governance
4.1.5 Put in place effective transparent and accessible arrangements for dealing with complaints	Complaints procedure “ <a href="#">Help us get it right</a> ” on website with full details Annual letter from Local Government and Social Care Ombudsman Customer insight work Social media Review of Complaints Procedure	
4.2.1 Ensure that those making decisions whether for the authority or partnership are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications	Council’s Website Report templates dealing with key aspects Report by Assistant Director with necessary technical expertise included Training and professional development Equality Impact Assessments Clear and well understood decision-making processes with published timelines	Projects carried out by the Council’s Research and Change Team  Customer insight work  Introduction of a requirement that all decision making reports must address

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.2.2 Ensure that professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately	<p>Report template requires that consultation is undertaken with legal and financial functions before report considered by Members</p> <p>Record of decision making and supporting materials</p> <p>S151 and Monitoring Officer Protocols</p> <p>Equality Impact Assessments</p> <p>Clear and well understood decision making processes with published timelines.</p>	Business Partners for Corporate and Improvement Services, including legal and financial matters
4.3.1 Ensure that risk management is embedded into the culture of the organisation, with members and managers at all levels recognising that risk management is part of their job	<p>Risk Management Strategy - Policy Framework</p> <p>Corporate Risk Manager</p> <p>Corporate/service planning</p> <p>Cabinet Member with accountability for risk management</p> <p>Half-yearly reporting to Governance and Audit Committee</p> <p>Performance Management Board quarterly risk review</p> <p>Risk Registers- Strategic, Operational and Project</p> <p>Risk and Control self-assessment completed by all managers</p> <p>Training for Members and Officers</p> <p>Intranet area for Risk Management</p> <p>Corporate Governance Team, bringing together the co-ordination of governance processes.</p>	<p>Embedding of risk management processes into projects, with a review of what constitutes a significant project</p> <p>Member briefing on risk management</p> <p>Integrating operational, strategic and project risks into the risk reporting process to senior management</p>
	Publication Scheme and Transparency Code 'Council data' online resource	the environmental and sustainability implications of the decision.

<b>In order to achieve our aims we have/will:</b>	<b>Source documents/Processes</b>	<b>Further work ongoing</b>
4.4.1 Actively recognise the limits of lawful activity placed on them by, for example the ultra vires doctrine but also strive to utilise powers to the full benefit of their communities	Constitution Monitoring Officer Report templates Equality Impact Assessments Equality Objectives	
4.4.2 Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on local authorities by public law	Availability of professional legal advice Knowledge of current and forthcoming legislation and regulations Monitoring Officer Protocol S151 Officer Protocol Report templates Constitution Equality Impact Assessments Equality Objectives Training and Policy updates	Business Partners for Corporate and Improvement Services, including legal and financial matters
4.4.3 Observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationality, legality and natural justice into their procedures and decision making processes	Availability of professional legal advice Knowledge of current and forthcoming legislation and regulations Monitoring Officer Protocol S151 Officer Protocol Procedure Rules Report template Constitution Format for quasi-judicial committees “Have Your Say” processes Planning Procedure Code of Practice Equality Impact Assessments Equality Objectives 'Council data' online resource	Business Partners for Corporate and Improvement Services, including legal and financial matters

## PRINCIPLE FIVE

<b>Core Principle 5 – Developing the capacity and capability of Members and Officers to be effective</b>		
<b>Our aims in relation to developing the capacity and capability of Members and Officers to be effective are:</b>		
<b>In order to achieve our aims we have/will:</b>	<b>Source documents/Processes</b>	<b>Further work ongoing</b>
5.1.1 Provide induction programmes tailored to individual needs and opportunities for Members and Officers to update their knowledge on a regular basis	Member training and development Member training records on the website Member and Officer Induction programmes Refresher courses Briefings Performance reviews for officers People Strategy Personal Development Plans Learning and Development Strategy Charter Status for Elected Member Development renewed July 2018 (re-assessed every 3 years)	Member skills development Intranet section with e-induction options and information for new starters. Learning and Development section on the intranet is now a 'one stop shop' for staff e-learning – from induction to essential skills and wellbeing – with new section offering free webinars/resources. External assessment for the reaccreditation of Member Charter Status is booked for the first quarter of 2022.
5.1.2 Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that	Appraisals and regular 1 to 1 sessions Personal Development Plans Training and development	

these roles are properly understood throughout the organisation	Recruitment and Induction Monitoring Officer and S151 Officer Protocols Employee Policies Learning and Development Strategy/Annual Learning and Development Plan Talent Management/Career Track for staff Future Leader programme	
<b>In order to achieve our aims we have/will:</b>	<b>Source documents/Processes</b>	<b>Further work ongoing</b>
5.2.1 Assess the skills required by Members and Officers and make a commitment to develop those skills to enable roles to be carried out effectively	Performance reviews for officers SMART objectives Personal Development Plans for officers Member training and development People Strategy Learning and Development Strategy/Annual Learning and Development Plan Charter Status for Elected Member Development renewed July 2018 (re-assessed every 3 years) Talent Management/Career Track for staff – Senior Management Team considers critical roles; moderate career track paths; confirm Future Leader or Future Potential assessments; and then consider those on the Future Leader career track and manage their development	Member skills development  Specialised training provided to Scrutiny members.  External assessment for the reaccreditation of Member Charter Status is booked for the first quarter of 2022.
5.2.2 Develop skills on a continuing basis to improve performance including the ability to scrutinise and challenge and to recognise when outside expert advice is needed	Performance reviews for officers Personal Development Plans for officers Member training and development Member scrutiny training People Strategy Colchester Learning Managers Vine HR and East of England Local Government Association – meetings, best practice and briefings	Member skills development  Learning and Development – commercial and Office365 skills  Specialised training provided to Scrutiny members.

	<p>Peer Challenge and action plan</p> <p>Charter Status for Elected Member Development renewed July 2018 (re-assessed every 3 years)</p> <p>Talent Management/Career Track for staff</p>	<p>External assessment for the reaccreditation of Member Charter Status is scheduled for the first quarter of 2022.</p>
5.2.3 Ensure that effective arrangements are in place for reviewing the performance of the authority as a whole and of individual members and agreeing an action plan which might for example aim to address any training or development needs	<p>Performance reporting and indicators</p> <p>Performance and Improvement Framework</p> <p>Performance management and appraisals – staff SMART objectives</p> <p>People Strategy</p> <p>Peer Challenge and action plan</p> <p>Annual Audit Letter</p> <p>Members' Training Needs Analysis</p> <p>Annual Training Plan</p> <p>Local Government and Social Care Ombudsman Annual Letter</p>	<p>External assessment for the reaccreditation of Member Charter Status is scheduled for the first quarter of 2022.</p>

<b>In order to achieve our aims we have/will:</b>	<b>Source documents/Processes</b>	<b>Further work ongoing</b>
5.3.1 Ensure that effective arrangements designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority	<p>Equality Impact Assessments on services and policies</p> <p>Consultations, Research and Statistics on website</p> <p>Voluntary Sector Grants programme</p> <p>Community Enabling Strategy</p> <p>Public meetings</p> <p>Equality Objectives</p> <p>Strategic Plan Consultation</p> <p>Local Development Framework consultation</p> <p>Community development work</p> <p>Consultations</p> <p>Customer insight work</p> <p>Research and Change Team projects</p> <p>Have Your Say! processes</p>	<p>Apprenticeship scheme, and encouraging the Council's apprentices to take part in elections work</p> <p>Locality Budgets</p> <p>Use of social media</p> <p>Maintaining the Council's commitment to paying the Living Wage as a minimum for its staff including, for example, those helping to support the Council's elections work at polling stations</p>

	<p>Appointment of Independent Persons Audio streaming of Council meetings</p> <p>The adoption of on-line committee meetings, during the pandemic, enabled greater participation from all sections of the community. The viewing figures demonstrate greater public participation than the previous audio recordings. A public consultation provided responses that demonstrated overwhelming support for on-line meetings.</p>	<p>Although the temporary legislation for on-line formal meetings was not extended beyond May 2021, all opportunities will be taken to lobby for a change in legislation to allow decision making to take place in a virtual environment.</p> <p>Non-formal meetings continue to be held virtually, where appropriate.</p> <p>Further development of the technology required to enable fully interactive hybrid meetings in the future.</p>
5.3.2 Ensure that career structures are in place for Members and Officers to encourage participation and development	<p>People Strategy Internal Recruitment Process Internal Secondments Personal Development Plans for officers Personal Development Plans for members Talent Management/Career Track for staff Future Leader Programme Member skills development Staff structure charts</p>	<p>Staff Recognition Scheme – first virtual annual celebration events held September 2020 and November 2021.</p> <p>Opportunities such as the District Council Staff Development Programme and the Local Authority Challenge as they arise</p> <p>Commitment to LGA Leadership Academy</p>

## PRINCIPLE SIX

<b>Core Principle 6 – Engaging with local people and other stakeholders to ensure robust public accountability</b>		
<b>Our aims in relation to engaging with local people and other stakeholders to ensure robust public accountability are to:</b>		
<b>In order to achieve our aims we have/will:</b>	<b>Source documents/Processes</b>	<b>Further work ongoing</b>
6.1.1 Make clear to themselves, all staff and the community, to whom they are accountable and for what	Constitution Community Enabling Strategy Stakeholder identification Targets and Performance Monitoring Website and intranet Consultation work ICT, Communication and Technology Strategy Asset Management Strategy 'Council data' resource on the Council's website brings together all information required under statutory codes such as the 'Local Government Transparency Code' and the 'Publication Scheme' to make this easily accessible <a href="#">Structure charts</a> for senior management	A wide range of information is brought together into one searchable website - <a href="http://www.data.gov.uk">www.data.gov.uk</a> – much of this can be downloaded / shows year-on-year data – looking at IT and access improvements.  Locality Budgets for councillors have been brought in with clearer guidelines and all spend/activity transparently available on the Council's website.

<b>In order to achieve our aims we have/will:</b>	<b>Source documents/Processes</b>	<b>Further work ongoing</b>
6.1.2 Consider those institutional stakeholders to whom they are accountable and assess the effectiveness of the relationships and any changes required	Stakeholder identification Statutory provisions Stakeholder surveys Consultation Strategy ICT, Communication and Technology Strategy Partnership Strategy Scrutiny Panel and the Crime and Disorder Committee Work Programme 'Council data' online resource	Ongoing review of Freedom of Information requests to see if there are items which could be put onto the website or 'Council data', so that a repeat request would not be needed as the item had been made freely available.
6.1.3 Produce an annual report on scrutiny function activity	Annual Scrutiny Report agreed by Full Council	
6.2.1 Ensure that clear channels of communication are in place with all sections of the community and other stakeholders including monitoring arrangements to ensure that they operate effectively	ICT, Communication and Technology Strategy News releases, e-newsletters and social media Websites for the Council and subsidiaries Equality Impact Assessments Safeguarding Policies 'Council data', Freedom of Information and Data Protection section of the website Recordings of meetings on the website	<p><a href="#">Coronavirus</a> resources set up March 2020 - have provided a source of latest updates, information, advice and support.</p> <p>The Council's <a href="#">Digital Access Team</a> has a range of activities and actions to support the community with online communication and service access.</p> <p>Social media and text messaging</p> <p>Customer and demand projects</p>
6.2.2 Hold meetings in public unless there are good reasons for confidentiality	Constitution Access to Information Rules Compliance with Localism Act access to information regulations Audio streaming of Council meetings	In person decision making meetings have been restored. Many meetings have been live streamed through YouTube leading to greater public engagement.

6.2.3 Ensure arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands	<p>Strategic Plan</p> <p>Website - "Consultations, Research and Statistics" section</p> <p>Consultation work</p> <p>ICT, Communication and Technology Strategy</p> <p>Community development work</p> <p>Equality Objectives/Equality Impact Assessments</p> <p>Budget Consultation Meeting</p>	Holding <a href="#">public consultations</a> on key issues to encourage different sections with differing views to take part
<p><b>In order to achieve our aims we have/will:</b></p> <p>6.2.4 Establish a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users including a feedback mechanism for those consultees to demonstrate what has changed as a result</p>	<p>Statement of Community Involvement</p> <p>Customer insight project team and its work</p> <p>Partnership framework</p> <p>ICT, Communication and Technology Strategy</p> <p>Consultation Strategy</p> <p>Budget Consultation - meeting and online</p> <p>Strategic Plan consultation</p> <p>Website - "Consultations, Research and Statistics" section</p> <p>Cabinet and Council – progress of questions raised by the public</p>	Policy Panel review of results and data collected in recent surveys and consultations with a view to exploring these in more depth at future meetings as part of the Panel's forward plan
6.2.5 On an annual basis, publish a performance plan giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period	<p>Statement of Accounts</p> <p>Strategic Plan</p> <p>Strategic Plan Action Plan – progress is reported to Scrutiny and Cabinet on a half-yearly basis</p> <p>Performance Reporting and Indicators</p> <p>Council website has "Performance and Improvement", "Council Awards and Achievements" and "Council and Democracy" sections</p> <p>Publication Scheme and Transparency Code</p> <p>All annual reports into one central place on the Council's website for improved transparency</p>	

<b>In order to achieve our aims we have/will:</b>	<b>Source documents/Processes</b>	<b>Further work ongoing</b>
6.2.6 Ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so	Constitution Customer service standards Voluntary Sector Compact "Have Your Say" at meetings Freedom of Information Act Publication Scheme Member and Officer Codes of Conduct Ethical Governance Policies Monitoring Officer Protocol ICT, Communication and Technology Strategy Data Protection Policy ICT Security Policy Council website 'Council data', Freedom of Information and Data Protection section of the website National Fraud Initiative - Fair Processing Notice Publication Scheme and Transparency Code Live Streaming of Council meetings Working with a range of partners to provide customer-facing services.	Security checks on staff who process official/sensitive information using the Public Sector Network or who need a secure GCSX e-mail address
6.3.1 Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making	Investors in People Facilities and Recognition Agreement with UNISON – including monthly meetings. Internal Communications Strategy Service Reviews and other operational reviews include consultation and involvement arrangements as part of the process/staff communications	Staff survey and taking action on its findings  Staff involvement – new engagement group being established  Investors in People – reaccredited for three years to 2021



## Governance and Audit Committee

Item  
**13**

23 November 2021

Report of	<b>Monitoring Officer</b>	Author	<b>Andrew Weavers</b>
Title	<b>Review of the Member / Officer Protocol</b>		<b>282213</b>
Wards affected	Not applicable		

### **1. Executive Summary**

1.1 The Council has agreed a Member / Officer Protocol which provides a framework for good working relationships between Councillors and Officers. This report requests the Committee to review the Member / Officer Protocol.

### **2. Recommended Decision**

2.1 To agree the Member / Officer Protocol and that it be included in the Council's Constitution.

### **3. Background**

3.1 The Member / Officer Protocol is contained in Part 5 of the Constitution. This Protocol provides a framework for good working relationships between Councillors and Officers, to define their respective roles and provide some principles governing conduct.

3.2 The Committee last reviewed the Protocol at its meeting on 24 November 2020. It is considered to be operating satisfactorily and no changes are proposed.

### **4. Strategic Plan References**

4.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic priorities to set out the direction and future potential for our Borough.

### **5. Publicity Considerations**

5.1 The Member / Officer Protocol forms part of the Council's Constitution which is published on the Council's website

### **6. Financial, Equality, Diversity and Human Rights, Consultation, Health, Wellbeing and Community Safety, Health and Safety, Risk Management and Environmental and Sustainability Implications**

6.1 None.



## Member / Officer Protocol

### Introduction

- (a) This Protocol sets down a framework for the interaction between Members and Officers to seek to ensure that Members and Officers work together effectively and efficiently to conduct the business of the Council.
- (b) The conduct of Members is governed by the Council's Members' Code of Conduct and Localism Act Arrangements. The conduct of Officers is governed by the Council's Code of Conduct for Council Employees.
- (c) This Protocol does not replace or affect those Codes; it contains a framework relating only to the areas of interaction between Members and Officers. However, a breach of the provisions of this Protocol is likely to constitute a breach of the relevant formal Code which in turn could lead to appropriate formal action being taken.

### 1. The Respective Roles of Members and Officers

- (1) Members are elected and represent their constituents. Under the Council's Executive Arrangements, Members will perform roles on the Cabinet, Scrutiny Panel, Planning Committee, Licensing Committee, Local Plan Committee, Governance and Audit Committee, Policy Panel, and Environment and Sustainability Panel in addition to sitting as members of the Full Council. Some Members represent the Council upon outside bodies.
- (2) Officers are employed by and serve the whole Council. They provide the same level of support to the various functions of the Council, i.e. the Executive (Cabinet), scrutiny and regulatory. Officers advise the Council, the Cabinet, Panels and Committees. They implement decisions of the Council, the Cabinet, Panels and Committees and make decisions under powers delegated to them.
- (3) This Protocol also applies to officers employed by the Council which deliver services and functions on behalf of partner organisations i.e. North Essex Parking Partnership and Colchester and Ipswich Joint Museum Service. Additionally, some officers have also been appointed as directors of the Council's commercial companies as a consequence of their employment by the Council and remain subject to this Protocol even whilst acting in their directorship capacity.
- (4) Officers are responsible to their line manager and, ultimately, their Assistant Director. Assistant Directors are accountable to the Chief Operating Officer / Executive Directors. The Chief Operating Officer and Executive Directors are accountable to the Chief Executive. The Chief Executive is accountable to the whole Council. Some senior officers have specific statutory responsibilities, including Adrian Pritchard, Chief Executive, as the Head of Paid Service (Section 4, Local Government and Housing Act 1989), Andrew Weavers, Strategic Governance Manager, as Monitoring Officer (Section 5, Local Government and Housing Act 1989), and Paul Cook, Head of Finance as the Chief Finance Officer (Section 151, Local Government Act 1972).

## **2. Officers' Advice and Political Neutrality**

(1) Officer advice and support will be provided to: -

- Council Meetings;
- meetings of the Cabinet and any Committees established by the Cabinet;
- Portfolio Holders and other Cabinet Members (a greater degree of detail may be necessary for Cabinet Members who also carry portfolio responsibilities);
- meetings of Committees/Sub-Committees and Panels;
- Working Parties/Forums, etc.;
- Chairmen/Vice-Chairmen of Committees and Panels;
- all Members of Council on Council business

Officers will provide support and advice to the executive, scrutiny and regulatory functions of the Council and will ensure that there is no conflict of interest in the advice given to each of the functions.

Officers will also provide advice and assistance to individual Members in respect of Council business, including issues raised by constituents.

(2) Officers must not be requested to advise upon matters of political party business or private matters.

(3) All Officers must treat political Groups and individual Members in a fair and even-handed manner. Officers must maintain political neutrality and Members must respect this.

(4) Senior officers may be invited to attend political Group meetings. The Chief Executive will decide whether such attendance may take place. If it is agreed that an Officer can attend a Political Group meeting, the Chief Executive will inform the other Group Leaders and offer a similar facility.

(5) Political Group meetings fall outside the Council's decision-making process. Conclusions reached at such meetings are not formal Council decisions and so should not be relied upon as such.

## **3. Officers' Advice on Declarations of Interest**

(1) Officers from the Council's Governance Team will provide advice and information to Members on declarations of interests. However, Members will know the nature and extent of any interest they may have. It is the Member's responsibility, therefore, to decide whether any interest should be declared. Officers must, when requested to do so, respect Members' confidentiality when providing advice on declarations of interest but may otherwise draw to a Members' attention the need to declare a known interest.

#### **4. Personal Relationships**

- (1) Close personal familiarity between individual Members and Officers can damage working relationships and prove embarrassing to other Members and Officers. There is the danger of favouritism being shown to a particular Member or Officer. There may be a risk that confidential information will be passed to a Member. Please refer to the Council's Social Media Policy.
- (2) For these reasons, such a personal familiarity is discouraged. Nevertheless, it is recognised that there may be occasions where it is unavoidable, particularly where family relationships or common interests (e.g. a club) arise.
- (3) A Member must declare to the Chief Executive and their respective Group Leader any relationship with an Officer that might be seen as influencing their work as a Member. This includes a family or close personal relationship. Similarly, the Officer concerned should notify their Assistant Director or, in the case of an Assistant Director, the Chief Operating Officer / Executive Director or, in the case of the Chief Operating officer or an Executive Director, the Chief Executive. In the case of the Chief Executive, then all Group Leaders should be notified. The Chief Executive and the Chief Operating Officer or relevant Executive Director will arrange for the relationship to be included in the formal Declarations of Interests provided by the Member and Officer.

#### **5 Appointment of Officers**

- (1) Members must not take any part in the appointment of anyone to whom they are:
  - married;
  - a partner;
  - otherwise related;
  - a friend;
  - a business associate.
- (2) Members must ensure that Officers are appointed only on merit in line the Council's HR recruitment policies, with a view to their best serving the whole Council.

#### **6. Undue Pressure**

- (1) A Member should not apply undue pressure on an Officer to do anything which they are not empowered to do, or which is against the Officer's professional judgement, or to undertake work outside normal duties or normal hours.
- (2) Similarly, an Officer must not seek to influence an individual Member to make a decision in their favour, nor raise personal matters to do with his/her job, nor make claims or allegations about other employees, except in accordance with any agreed Council procedure or in accordance with law. Members who receive any such approach from an Officer should advise the Chief Executive and the Chief Operating Officer or the appropriate Executive Director immediately. The Council has formal procedures for consultation, grievance and discipline, etc. dealing with these matters.

## **7. Officers' Reports and Advice**

- (1) The named author(s) of a report to the Council or any part of its formal decision-making structure will always be fully responsible for the contents of it. Under overview and scrutiny arrangements, an Officer can be held responsible for the contents of his/her reports or advice and be required to answer for the advice given.
- (2) The Leader, Cabinet Member and/or Chairman of the relevant Committee or body may comment upon a proposed report, either during the original consultation process or following receipt of a draft agenda. The Officer concerned will give due consideration to such comments, consulting their Assistant Director or Chief Operating Officer / Executive Director and other appropriate Officers as necessary. The Chief Executive will be the final arbiter upon the contents of any report.
- (3) A report will only be amended where the suggested amendment also reflects the professional judgement of the author of the report. Any remaining disagreement between the Cabinet Member/Chairman and the author of the report should be referred to the Chief Executive, or, if the author of the report is the Chief Executive, to the Monitoring Officer for resolution after consultation with the Leader.
- (4) Occasionally, Officers will need to express a professional view on a matter which may not support the view of the leading Group and/or the relevant Senior Officers of the Council.
- (5) Members should not put an Officer in a position where there would be a conflict between themselves and their line manager, Assistant Director or Chief Operating Officer / Executive Director, nor should the Officer receive detrimental treatment as a consequence if the Member is aggrieved.

## **8. Officer Decisions made under Delegated Powers**

- (1) Officers may make decisions under powers delegated to them pursuant to the Schemes of Delegation or by specific authority from the Cabinet, a Cabinet Member, Panel or Committee. It must be recognised that it is the Officer, and not any Member, who takes the action and it is the Officer who is accountable for it.

## **9. Officers relationship with the Leader, Cabinet Members and the Chairman of the Scrutiny Panel**

- (1) The working relationship between Senior Officers and the Leader/Cabinet Members will be particularly close. Cabinet Members will have broad-ranging responsibilities. Officers may provide briefing notes, advice and information to the Cabinet Members in respect of reports or questions at Panel, Committee and Council Meetings. This relationship, however, must not:
  - compromise Officers' duties to all members of the Council;
  - be so close as to give the appearance of partiality on the part of the Officer;

- undermine the confidentiality of any discussions with the Senior Management Team or between Senior Officers and other Members;
- compromise Officers' professional responsibility to advise Members that a particular course of action should not be pursued;
- abrogate Officer responsibility for action taken under Delegated Powers.

(2) There will also be a close working relationship between senior officers and the Chairman of the Scrutiny Panel within the remit of scrutiny of executive functions.

**10. Constructive Criticism/Complaints**

- (1) It is important that there should be mutual courtesy between Members and Officers. It is important that there are reasonable standards of courtesy and no Member or Officer should seek to take unfair advantage of their position.
- (2) Members and Officers should not criticise or undermine respect for the other at Council Meetings or at any other meeting they attend in their capacity as a Councillor or Council employee.
- (3) Members should not raise matters relating to the conduct or capability of an individual Council Officer or Officers collectively at meetings held in public.
- (4) Members when acting in their official capacity must comply with the Council's Social Media Policy and should not use social media to abuse, harass or undermine respect for officers. Officers should not use social media to criticise or undermine respect for Members and must comply with the Council's Social Media Policy at all times.
- (5) If a Member believes that they have not been treated with proper courtesy or has a concern about the conduct or capability of an Officer, they should raise the matter with the respective Assistant Director. If they are not satisfied with the action that has been taken in response to this, they may raise the matter with the Chief Executive who will look into the matter afresh. If the Chief Executive believes that there is a case to answer the Chief Executive may determine the action to be taken which might include the Council's formal disciplinary procedures. If the Officer concerned is the Chief Executive then the Member should raise the matter with their Group Leader, who should initially discuss the issue with the Chief Executive.
- (6) If an Officer feels that they have not been treated with respect or is concerned about any action or statement in relation to them or a colleague by a Member, or conduct of a Member, the Officer should raise the matter with their Assistant Director. If the Officer is not satisfied with any action that has been taken as a result, the Officer should raise the matter with the Chief Operating Officer or their Executive Director. If there is a serious case to answer the Chief Operating Officer / Executive Director, with the agreement of the Chief Executive, may request that the matter be investigated through the Council's Governance and Audit Committee's procedures.
- (7) Where an Officer or Member is concerned about potential unlawful conduct of an Officer or Member, the Council's Whistleblowing Policy may also be relevant. Nevertheless, the procedure outlined in this Protocol should be first reference where possible.

## **11. Members' access to information and to Council documents**

- (1) Each Member has the right to inspect and have copies of the reports, minutes and background papers relating to the public part of any Council, Cabinet, Panel or Committee agenda. However, Members do not have an automatic right of access to all documents relating to confidential or "Exempt" items on the agenda. These might include, for instance, information relating to employees, occupiers of Council property, applications for grants, contracts, industrial relations negotiations, legal advice and criminal investigations. These provisions are detailed in the Access to Information Procedure Rules.
- (2) In respect of such confidential information, Members will normally receive, or have access to all papers unless they are of particular sensitivity. A Member may have access to such sensitive documentation insofar as it is reasonably necessary to enable them to properly perform their duties as a Member of the Council. The relevant question to be asked is whether they need to know the information to perform such duties.
- (3) A member of the Cabinet, Panel or Committee will have a need to know of the documentation relating to that body. In other circumstances, a Member will normally be expected to justify the request in specific terms and the motive for requesting the information will be relevant. The question as to access to the documentation will be determined by the Monitoring Officer.
- (4) Members of the Scrutiny Panel have the additional rights to access contained at Rule 22 of the Access to Information Procedure Rules.
- (5) Where a Member has a Disclosable Pecuniary Interest in a matter, the Member will only be entitled to the same rights of access to documentation as would apply for the public generally, although the Member would continue to receive the same documentation as is sent to other members of the Council.
- (6) Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council. Confidential information should not be disclosed, discussed with or released to any other persons. Such disclosure would be a betrayal of trust. In particular, Members should never disclose or use confidential information for the personal advantage of themselves or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.
- (7) Any confidential information provided to Members should be clearly marked as such prior to its provision.
- (8) Further advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.

## **12. Public Relations and Press Releases**

- (1) By law the Council is prohibited from publishing material which appears to be designed to affect public support for a political party. News releases are written by Officers, but they may contain quotations from a Member. Such news releases are issued on behalf of the Council and it would not, therefore, be appropriate when repeating quotations from Members to indicate their

party-political affiliation. The aim will be for the news releases to be objective, factual and informative. The Council has also adopted a guide to pre-election publicity which provides advice upon publicity and activities during a pre-election period.

(2) The Council will abide by the National Code of Recommended Practice on Local Authority Publicity.

(3) For detailed guidance please refer to the Council's Media Protocol.

### **13. Council Publications**

(1) The Council's range of e-newsletters shall remain politically neutral. They may contain quotes from Portfolio Holders in line with Council policy. Reports of decisions made shall be those of the Council represented as the body corporate.

(2) Publications issued by Service Groups may contain quotations from Cabinet members in line with Council policy on the matter. Where policy has yet to be determined, a Cabinet Member should not indicate their preference. If the Council has no policy on a particular matter and a Cabinet Member wishes to comment, the same opportunity must be made available to Shadows.

### **14. Member Support Services**

(1) The Council provides a range of support services, including stationery, postage and an e-mail address to enable Members to carry out their duties. These may only be used on Council business, such as correspondence between Members or Members and Officers; or in response to queries raised by local people. They must not be used for any party political, mailing list or election purposes whatsoever. Members must not ask Officers to type, photocopy or otherwise process any party political or election material.

### **15. Correspondence**

(1) Unless a Member or Officer requests confidentiality, it is to be assumed that correspondence between a Member and an Officer is not confidential and may be shown to others. If, in an Officer's view, correspondence between an individual Member and an Officer is of interest to other Members, to keep them fully informed, it should be made clear to the original Member that copies could be sent to other Members.

(2) Where issues are raised by, or with, individual Members relating to a matter of general interest in a Borough Ward, as it is in the best interests of the Council to ensure that all Members are properly informed of general issues in their Ward, copies of correspondence will only be sent by agreement of the individual Member.

(3) Officer letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to be signed by a Member, but this should be the exception rather than the norm.

### **16. Involvement of Ward Members and MPs**

(1) Information regarding activities in particular Ward should, when appropriate, be copied to the Ward Member(s) and Essex County Council Divisional Member(s) for information. Ward Members should be invited to take part in or

attend any public meeting, consultative exercise or launch event organised by the Council concerning a local issue.

- (2) If an Officer calls a meeting upon a local issue with or including Ward Members, the Officer will invite all Members for the Ward(s) in question.
- (3) If any of the Members of Parliament (MP) that represent the Borough are involved in the local issue, the Officer at their discretion may invite the relevant MP's to the meeting in addition to the Ward Members. If the Officer considers this to be inappropriate for any reason, they may meet the MP separately.
- (4) If a Ward Member calls or requests a meeting upon a local issue at which an Officer or Officers is/are requested to be in attendance, the Officer(s) will be required to attend only if all the Members for the Ward have been invited to attend, or are agreeable to the meeting taking place, and if the subject matter of the meeting is not politically controversial.
- (5) If a MP calls or requests a meeting upon a local issue at which an Officer or Officers is/are requested to be in attendance, the same criteria govern the Officer's attendance as in paragraph (4) above.
- (6) Meetings with Ward Members and/or MP's and/or others are generally private. Officers may confirm the events which occurred at the meeting and the outcome of it with the Members who attended, but will not reveal those matters to other Members or to other political groups except with the specific authority of the Member(s) who attended or called the meeting.

## **17. Ministerial Visits**

- (1) If an Officer is made aware that a visit will be made to the Borough by a Minister of Her Majesty's Government (whether at the invitation of the Borough Council or otherwise), the officer shall advise Group Leaders of the visit together with any input required from Members or officers of the Council. Consideration shall be given to inviting the Mayor, the Leader, the relevant Portfolio Holder, other Cabinet Members, Shadow Spokespersons and Ward Councillors.
- (2) Where a visit to the Borough by a Minister of Her Majesty's Government is within the control of the Council, the Member of Parliament in whose constituency the visit is to take place, shall be invited to attend.

## **18. Procedure for dealing allegations of breaches of this Protocol**

- (1) Any allegations that a Member has not complied with this Protocol may be referred to the Governance and Audit Committee who will determine the issue. One of the Council's Independent Persons appointed under the Localism Act 2011 will be invited to attend and advise the Committee (but not vote).
- (2) Any allegations that an Officer has not complied with this Protocol will be dealt with in accordance with the Council's Human Resource procedures.

## **19. Review of this Protocol**

- (1) This Protocol will be reviewed annually by the Governance and Audit Committee.



# Governance and Audit Committee

Item  
**14**

**23 November 2021**

<b>Report of</b>	<b>Monitoring Officer</b>	<b>Author</b>	<b>Andrew Weavers</b>
<b>Title</b>	<b>Gifts and Hospitality – Review of Guidance for Councillors and Policy for Employees</b>		
<b>Wards affected</b>	Not applicable		

## 1. Executive Summary

1.1 The Council provides guidance for councillors regarding any gifts and hospitality received in their role as a councillor. The Council has also adopted a policy for its employees in relation to any gifts and hospitality received. This report requests the Committee to approve updated guidance for councillors and policy for employees.

## 2. Recommended Decision

2.1 To approve the attached Guidance for Councillors regarding Gifts and Hospitality and that it be included in the Constitution.

2.2 To approve the attached Gifts and Hospitality Policy for Employees.

## 3. Background

3.1 The Gifts and Hospitality Guidance for Councillors and the Policy for Employees were last considered by the Committee at its meeting on 24 November 2020.

3.2 The Council when it adopted its Members' Code of Conduct retained the requirement from the previous regime for transparency purposes of the registration and declaration of gifts and hospitality of the value of £50 and above as part of the Councillors Register of Interests. These are published on the Council's website as an integral part of the Committee Management Information System (CMIS). Guidance was produced for Councillors who may be offered gifts and/or hospitality and is included in the Constitution. The Guidance has been reviewed and updated and is attached at Appendix 1 of this report and the Committee is requested to approve the Guidance and to include it in the Constitution.

3.3 Council employees are required as part of their terms and conditions of employment to register any gifts and hospitality received in a new online register on the Council's intranet. This register is subject to regular review by the Monitoring Officer. In addition, the register are regularly audited by the Council's internal auditors. The employee's policy on gifts and hospitality is published on the Council's intranet and the opportunity has been taken to review and update the Policy which is attached at Appendix 2. The Committee is requested to approve the Policy.

3.4 The Monitoring Officer writes annually to both Councillors and Officers reminding them of their obligation regarding declaring and registering gifts and hospitality.

#### **4. Strategic Plan References**

4.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan priorities to set out the direction and future potential for our Borough.

#### **5. Publicity Considerations**

5.1 The Constitution is published on the Council's website

#### **6. Financial, Equality, Diversity and Human Rights, Consultation, Health, Wellbeing and Community Safety, Health and Safety, Risk Management and Environmental and Sustainability Implications**

5.1 None.



# Guidance for Councillors regarding Gifts and Hospitality

A guide for Councillors regarding  
gifts and hospitality.

**November 2021**

	Page
1.0 Introduction	3
2.0 The Legal Position	3
3.0 General Advice	3
4.0 Gifts	3
5.0 Hospitality	4
6.0 Declaration of Gifts or Hospitality at Meetings	5
7.0 Further advice	5

## 1. Introduction

- 1.1 The Council's Members' Code of Conduct requires Members and Co-opted Members to include on their Notice of Registerable Interests details of any gift or hospitality received as part of their official duties which may be over the value of fifty pounds. It is also a breach of the Code for a Member to use their position as a Councillor improperly to confer on or secure for themselves or any other person an advantage or disadvantage.
- 1.2 The following guidance aims to assist Members and Co-opted Members in complying with the Members' Code of Conduct but it also goes beyond these basic provisions and seeks to provide wider guidance so Members can avoid situations where their integrity may be caused to be questioned as a result of gifts and hospitality.

## 2. The Legal Position

- 2.1 The Bribery Act 2010 makes it an offence to offer, promise or give a bribe. The Act also makes it an offence to request, agree to receive, or accept a bribe.
- 2.2 The Act also creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business. A corporate offence is committed where a commercial organisation fails to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation.

## 3. General Advice

- 3.1 Members are advised to treat with extreme caution any offer or gift, favour or hospitality that is made personally to them. The person or organisation making the offer may be doing business or seeking to do business with the Council or may be applying to the Council for some sort of decision in respect of which it is imperative that the Member's independence should not be compromised e.g. planning approval.

## 4. Gifts

The following rules should be applied:

- 4.1 Other than the exceptions listed in 4.3 and 4.4 below, a Member should refuse any gift offered to them or to an immediate relative of the Member, by any person who has or may seek to have dealings with the Council. Members must notify the Monitoring Officer of all such refusals as soon as reasonably practicable regardless of the value of the offered gift (unless the gift falls within 4.3 or 4.4 below). The Monitoring Officer will maintain a record for this purpose.
- 4.2 Members should note that the Members' Code of Conduct requires all gifts and hospitality which exceed fifty pounds in value to be entered on the Members Notice of Registerable Interests which is published on the Council's website. Any gifts or hospitality must be registered within twenty eight days of receipt.

The exceptions where it may be appropriate to accept a gift are:

- 4.3 The gift is of purely token, promotional advertising value given to a wide range of people, e.g. pens, key rings and other promotional items. As such promotional gifts will usually be less than fifty pounds in value generally there will be no need to register but in cases of doubt Members should err on the side of caution and register the gift.
- 4.4 A small gift where refusal would cause needless offence and the giver is not currently seeking a decision or business from the Council. Again, because such gifts would be of a small value generally there will be no need to register but in cases of doubt Members should err on the side of caution and register the gift.
- 4.5 A gift to the Council. This is particularly relevant to the Mayor or Deputy Mayor who may receive gifts on behalf of the Council. A separate record of such gifts is maintained by the Mayor's Secretary. Gifts made to the Mayor's charities need not be recorded.
- 4.6 Gifts given as prizes at exhibitions, conferences, seminars etc. as part of a free raffle or draw may be accepted but they belong to the Council and should be registered with the Monitoring Officer as soon as reasonably practicable (notwithstanding that their value may be less than the fifty pounds specified in the Members Code of Conduct). The Monitoring Officer in consultation with the Chairman of the Governance Committee will determine whether it is appropriate to retain the gift in question.
- 4.7 Whilst it may be acceptable to accept a token or small gift on one occasion Members should refuse repeated gifts, even if these are individually not of a significant value.
- 4.8 Cash or monetary gifts should always be refused without exception and the refusal notified to the Monitoring Officer as set out in paragraph 4.2 above.

## **5. Hospitality**

- 5.1 Increasingly private companies offer hospitality e.g. free drinks, tickets to shows or hotel accommodation to persons with whom they do business or with whom they hope to do business in the future. Such hospitality could convey the impression that Members' judgement would be influenced. It would however be too rigid to say that no hospitality can be accepted. Members are reminded that any hospitality which exceeds fifty pounds is required by the Members Code of Conduct to be registered. However, Members may wish to notify the Monitoring Officer of hospitality offered but refused and hospitality which is less than the fifty pounds limit specified in the Members' Code of Conduct.
- 5.2 Examples of hospitality which may be acceptable follow, but much may depend on the particular circumstances, e.g. who is providing the hospitality, why the Member is there and the nature of the dealings between the Council, the Member and the provider of the hospitality:
  - A working meal provided to allow parties to discuss or to continue to discuss business. (A useful test will often be whether you would provide similar hospitality if the situation was reversed).
  - An invitation to attend a dinner or function of a Society, Institute or other non commercial body with whom the Council has contact.
  - Invitations to attend functions where the Member represents the Council (opening ceremonies, public speaking events, conferences)

- An invitation to attend an event which is categorised as a Civic function or reception
- Civic hospitality provided by another Public Authority.

5.3 The following are examples of unacceptable hospitality:

- Holidays, including accommodation and travel arrangements
- Offers of theatre tickets for the Member and their family or free travel
- Personal invitations for evenings out with representatives from a company or firm who have dealings with the council or who are likely to have dealings in the future.

Members are advised to err on the side of caution and if in any doubt as to the integrity of the offer / invite, the Member should consult the Monitoring Officer or refuse.

## **6. Declaration of Gifts or Hospitality at Meetings**

6.1 The Members Code of Conduct requires that any gift or hospitality received and recorded on a Members' Notice of Registerable Interest must be declared by that Member at any meeting for a period of three years from the date of receipt of the gift or hospitality whenever the matter under decision relates to the provider of the gift or hospitality concerned.

## **7. Further advice**

7.1 If any Member has any concerns regarding this Guidance they must seek advice from the Monitoring Officer.





# **Gifts and Hospitality Policy for Employees**

**A guide for Council employees  
regarding gifts and hospitality  
received in the course of their duties.**

**November 2021**

## **Contents**

<b>1. Introduction .....</b>	<b>3</b>
<b>2. Gifts.....</b>	<b>3</b>
<b>3. Hospitality.....</b>	<b>3</b>
<b>4. Recording Gifts and Hospitality .....</b>	<b>4</b>

## 1. Introduction

- 1.1 These guidelines are here to help employees decide whether or not they should accept offers of gifts or hospitality. In local government you need to be very careful to ensure that the public confidence in your own and the Council's integrity cannot be damaged in any way by your actions.
- 1.2 **If you have any doubts about an offer of a gift or form of hospitality you must refuse and seek the advice of your manager, Assistant Director or the Monitoring Officer.**

## 2. Gifts

- 2.1 You must be **very careful** when accepting gifts – in some circumstances you could break the law. The general rule is to politely and tactfully refuse offers of gifts from people or organisations who do or might provide work, goods or services to the Council or who seek some decision from the Council – for example, in respect of planning permission.
- 2.2 Gifts of the following type **may** be accepted:
  - **Modest** gifts of a promotional character such as calendars, diaries, articles for use in the office.
  - A **small** gift received at Christmas or on the conclusion of a courtesy visit to a factory or firm, or gifts which are presented at civic or ceremonial occasions.
- 2.3 You must appreciate that these exceptions apply only to **modest gifts** and an expensive gift must not be accepted. Again, if you are **in doubt, refuse** the gift and **seek advice** from your manager or Assistant Director.
- 2.4 Gifts which are intended for the Council as a corporate body or intended for a service area can be accepted but you **must not** retain these. Such gifts must be given to the Assistant Director for the service area concerned or the Chief Executive as appropriate.

## 3. Hospitality

- 3.1 You must use your judgement when accepting an offer of hospitality. You should ask yourself whether members of the public, knowing the facts of the situation, could reasonably think that you might be influenced by the hospitality offered. If the answer is yes, the hospitality should be declined. You should consider:
  - the person or organisation offering the hospitality;
  - the scale and nature of the hospitality; and
  - the timing of the hospitality in relation to decisions to be made by the Council.
- 3.2 Some **examples** of situations and circumstances where hospitality might be **acceptable** are:

- Routine meals at establishments used by the local business community, to discuss business, prior to or following such a discussion. A useful test will often be whether you would provide similar hospitality if the situation was reversed.
- Customary lunches and dinners given at conferences where there are numerous guests and where invitations are formally received and accepted in advance of the conference.
- Courtesy invitations by major companies providing services to the Council, e.g. Bankers, Insurers etc.
- Invitations to join other company guests at sponsored cultural, sporting events or other public performances and openings of other special occasions.
- Civic and ceremonial occasions when accompanying the Mayor.

3.3 Some **examples** of situations and circumstances where hospitality is unacceptable are:

- Paid or concessionary holidays or travel.
- Other concessionary rates which are not openly and as a matter of practice, available equally to other organisations.
- Offers of hotel and/or theatre tickets in London (except in circumstances described in 3.2 above).
- The use of company flats or hotel suites.
- Extravagant meals at exclusive venues.
- Frequent hospitality from one source.

3.4 In general, it is usually more acceptable for you to accept hospitality when it is offered to a group rather than something which unique to yourself. You should take greater care if you are offered hospitality when the person or organisation has current dealings with the Council, or such dealings are in prospect.

## 4. Recording Gifts and Hospitality

4.1 All gifts and hospitality which you accept **must** be recorded as soon as possible in the online Gifts and Hospitality Register which can be accessed via COLIN. Any gift or hospitality must be countersigned by your manager. The register is inspected regularly by the Monitoring Officer. The register is subject to regular audit by the Council's auditors.

Access the register: [Click Here](#)

**It is your personal responsibility for ensuring that your acceptance of hospitality and/or gifts is entered in the record. Any inappropriate receipt of any gift or hospitality could lead to disciplinary action.**



## **Governance and Audit Committee**

**Item  
15**

**23 November 2021**

<b>Report of</b>	<b>Assistant Director Corporate and Improvement Services</b>	<b>Author</b>	<b>Matthew Evans</b>
			<b>ext. 8006</b>
<b>Title</b>	<b>Work Programme 2021-2022</b>		

**Wards affected** Not applicable

### **1. Executive Summary**

- 1.1 This report sets out the current Work Programme 2021-2022 for the Governance and Audit Committee. This provides details of the reports that are scheduled for each meeting during the municipal year.
- 1.2 Members are asked to note that the Annual Audit Letter 2020/2021 which was due to be considered at this meeting of this Committee, will now be considered at the meeting in January 2022.

### **2. Recommended Decision**

- 2.1 The Committee is asked to note the contents of the Work Programme for 2021-2022.

### **3. Reason for Recommended Decision**

- 3.1 The Work Programme of this Committee is kept under review throughout the municipal year to ensure that business is progressed and Members have the opportunity to review upcoming agenda items. Members are asked to note that the item; Colchester Borough Homes Annual Report and Governance Statement, has been moved from this meeting to the next meeting of this Committee in October.

### **4. Alternative Options**

- 4.1 This function forms part of the Committee's Terms of Reference and, as such, no alternative options are presented.

### **5. Background Information**

- 5.1 The Governance and Audit Committee deals with the approval of the Council's Statement of Accounts, audit, other miscellaneous regulatory matters and standards.

5.2 The Committee's Work Programme will evolve as the Municipal Year progresses and items of business are commenced and concluded. At each meeting the opportunity is taken for the Work Programme to be reviewed and, if necessary, amended according to current circumstances.

## **6. Standard References**

6.1 There are no particular references to publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety, environmental and sustainability implications or risk management implications.

## **7. Strategic Plan References**

7.1 Governance is integral to the delivery of the Strategic Plan's priorities and direction for the Borough as set out under the four themes of growth, responsibility, opportunity and wellbeing.

7.2 The Council recognises that effective local government relies on establishing and maintaining the public's confidence, and that setting high standards of self-governance provides a clear and demonstrable lead. Effective governance underpins the implementation and application of all aspects of the Council's work.

## **WORK PROGRAMME 2021-22**

<b>Governance and Audit Committee</b>
<b>Meeting date / Agenda items -</b>
Governance and Audit Committee - <b>22 June 2021</b>
<ul style="list-style-type: none"><li>1. Draft Annual Statement of Accounts 2020/2021</li><li>2. Year End Internal Audit Assurance Report 2020/2021</li><li>3. Review of the Governance Framework and Draft Annual Governance Statement</li><li>4. Financial Regulations 2022-2023</li><li>5. Financial Monitoring Report – End of Year 2020-2021</li><li>6. Capital Outturn – End of Year 2020-2021</li></ul>

**Governance and Audit Committee - 27 July 2021**

Governance and Audit Committee briefing followed by the following items -

1. Review of digital meetings following Covid-19
2. Colchester Commercial Holdings Limited – Annual report
3. 2020/2021 Year End Review of Risk Management

**Governance and Audit Committee - 7 September 2021**

1. Financial Monitoring Report – April to June 2021
2. Capital Expenditure Monitor 2021/2022
3. Treasury Outturn 2020/2021
4. Audited Annual Statement of Accounts 2020/2021 and Annual Audit Letter
5. Processing of Special Category & Criminal Convictions Personal Data Policy

**Governance and Audit Committee - 19 October 2021**

1. Local Government and Social Care Ombudsman Annual Review 2020/2021
2. Health and Safety Policy and Annual Report
3. Colchester Borough Homes Annual Report and Governance Statement
4. Review of digital meetings following Covid-19
5. Review of Colchester Borough Council's Cyber Security provisions

**Governance and Audit Committee – 23 November 2021**

1. Review of the Council's Ethical Governance Policies
2. Annual Review of the Members' Code of Conduct and the Council's Localism Act "Arrangements"
3. Review of Local Code of Corporate Governance
4. Review of Member/Officer Protocol
5. Gifts and Hospitality – Review of Guidance for Councillors and Policy for Employees
9. Treasury Management – Half Yearly Update
10. Financial Monitoring Report June – September 2021
11. Capital Monitoring 2021/2022

**Governance and Audit Committee - 18 January 2022**

1. Interim Review of the Annual Governance Statement Action Plan
2. Risk Management Progress Report
3. Mid-Year Internal Audit Assurance Report 2021/2022
4. CCHL Half-Year Performance Report (to include draft 3 year plan)
5. Annual Review of the Council's Companies' Business Plans
6. Annual Review of Business Continuity
7. Annual Audit Letter 2020/2021

**Governance and Audit Committee - 8 March 2022**

1. External Audit Plan for year ending 31 March 2022 and Certification of Claims and Returns – Annual Report 2020/2021
2. Financial Monitoring Report October to December 2021
3. Capital Expenditure Monitor 2021/2022
4. Internal Audit Plan 2022/2023
5. Review of digital meetings Covid-19
6. Equality and Safeguarding Annual Update