

Governance and Audit Committee Meeting

**Council Chamber, Town Hall, High Street,
Colchester, CO1 1PJ**

Tuesday, 07 March 2017 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

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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, 07 March 2017 at 18:00

Member:

Councillor Chris Pearson
Councillor Nick Barlow
Councillor Karen Chaplin
Councillor Peter Chillingworth
Councillor Fiona Maclean
Councillor Dennis Willetts

Chairman
Deputy Chairman

Substitutes:

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

AGENDA - Part A
(open to the public including the press)

Members of the public may wish to note that Agenda items 1 to 5 are normally brief.

1 Welcome and Announcements

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
 - action in the event of an emergency;
 - mobile phones switched to silent;
 - the audio-recording of meetings;
 - location of toilets;
 - introduction of members of the meeting.

2 Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

3 Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

4 **Declarations of Interest**

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

5 **Minutes**

9 - 12

To confirm as a correct record the minutes of the meeting held 17 January 2017.

6 **Have Your Say!**

a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter relating to the terms of reference of the Committee/Panel not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter relating to

the terms of reference of the Committee/Panel not on this agenda.

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8	Member/Officer Protocol - Councillor Lissimore	15 - 18
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10	Financial Monitoring Report – April to December 2016	41 - 54
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14	Income and Debt Policy 2017	121 - 138
	See report of Head of Customer Services	
15	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

17 JANUARY 2017

Present:- Councillor Pearson (Chair), Councillor Barlow, Councillor Chaplin, Councillor Chillingworth, Councillor Willetts

Substitution:- Councillor J.Maclean for Councillor F.Maclean

Also present;- Councillor Cory

38. Minutes

RESOLVED that the minutes of the meeting held on 22 November 2016 were confirmed as a correct record.

39. Work Programme 2016-2017

Councillor Pearson introduced the Work Programme for the Governance and Audit Committee. Councillor Pearson informed the Committee that the Annual Audit Plan would be included on the Governance and Audit Committee meeting for 7 March 2017.

The Democratic Services Officer informed the Committee that the Covert Surveillance Policy would also be included on the agenda for the meeting on 7 March 2017. In addition, the Democratic Services Officer reminded the Committee about the Review of Meetings and Ways of Working public meeting sessions that are taking place, and the publication of an online survey for members of the public to respond to. Councillor Pearson encouraged members to circulate information about the Review of Meetings and Ways of Working.

RESOLVED that;

- a) The Annual Audit Plan and the Covert Surveillance Policy be added to the Work Programme for the meeting on 7 March 2017.
- b) The Work Programme be noted.

41. Certification of Claims and Returns – Annual Report 2015/16

Steve Heath, Finance Manager, introduced the Certification of Claims and Returns Annual Report 2015/16. The report requests that the Committee note and comment on the contents of the Certification of Claims and Returns annual report from the external auditor, Ernst and Young. This is the final report presented to the Committee relating to work from the financial year 2015/16.

Kevin Suter presented the report and informed the Committee of the main highlights of the report. Kevin Suter stated that the key work undertaken on certification of claims and returns relates to Housing Benefit Subsidy Claim; the value of which is £55m. In addition to this, Ernst and Young are also required to complete a set programme of work as stated by the Department of Work and Pensions. The process includes testing 20 cases of each benefit type; where errors are identified 40+ testing is then carried out. The testing requires 40 further cases to be tested each time an error is encountered; on this occasion there

were four areas that required 40+ testing. The result of the work was provided to the Council in a qualification letter. The net impact of the qualification was £11,028, representing 0.02% of £55m; this is within the usual standards compared to other local authorities in providing accurate benefits for the claimants.

Kevin Suter stated that because of the higher number of errors found compared to previous years, the indicative fee has increased by £1,083; this related to one more set of 40+ testing and the additional time spent reviewing claim adjustments. In terms of the future, Kevin Suter informed the Committee that there are two more years with the current arrangement. From 2018-19 the Department of Work and Pensions will require the Council makes its own arrangements for the certification of the claim. Discussions are already taking place with Officers to ensure that appropriate measures in place.

Councillor Pearson asked for clarification about what Colchester Borough Council is intending to do in the future regarding the changes. Steve Heath stated that a report has been submitted to the February Cabinet meeting to recommend that the Council opts in to the appointing persons arrangements made by Public Sector Audit Appointments for the appointment of external auditors.

Councillor Willets questioned whether the net impact on the claim of £11,028 relates to the extended block of 40+ testing, or whether this relates to an extrapolated value. In response, Kevin Suter stated that 40+ testing is only undertaken when there is an error which requires a further 40 cases to be tested. The £11,028 claim refers to a total extrapolation of all errors identified through the testing process. The total number of cases is approximately 180-200 in total through the whole process; of those claims the amounts will vary for each error.

RESOLVED that the Certification of Claims and Returns Annual Report 2015/16 be noted.

42. Interim Review of the Annual Governance Statement Action Plan

Hayley McGrath, Corporate Governance Manager, introduced the report, which requests that the Committee consider and note the work undertaken to implement the current Annual Governance Statement Action Plan.

Hayley McGrath stated that the Governance and Audit Committee received a report on the Annual Governance Action Plan for 2016-17 in June, and this report provides an updated position on the work undertaken to implement the action plan. Hayley McGrath confirmed that there had been progress against all the issues identified in the action plan and that the audit of the final accounts for 2015/16 did not raise any concerns with the Annual Governance Statement or the action plan.

Councillor Pearson highlighted the need to explain the acronyms within the report. Councillor Willets requested further information about the changes to the payroll system at Colchester Borough Council following reports of difficulties in transferring services. In response Hayley McGrath clarified that issues identified in June with regard to the payroll refer to the previous year's audit. The new system went live on 1 April 2016 and is expected to be audited shortly. Ann Hedges, Chief Operating Officer, added that the Council re-tendered for a payroll supplier and the previous supplier did not wish to proceed into a handover period prior to the new service starting. This meant that the Council had to set up a bureau system in advance of the new supplier starting, which originally caused some difficulty with management reports. Councillor Cory confirmed that there was some difficulty with the bureau system; including Councillors allowances, however this had been

rectified and also moved to a paperless system. Switching to the new supplier for the payroll system will deliver digital challenge savings.

Councillor Willetts also questioned the theft of equipment at Rowan House in particular whether there was any data on the devices that were stolen. Ann Hedges confirmed that only unused equipment had been taken which contained no sensitive data; the theft did also include money being stolen and damage to property.

RESOLVED that the work undertaken to implement the current Annual Governance Statement.

43. Mid-Year Internal Audit Assurance Report 2016/17

Hayley McGrath, Corporate Governance Manager, introduced the Mid-Year Internal Audit Assurance Report 2016/17. The report requests that the internal audit activity between 1 April 2016 and 30 September 2016 and the performance of internal audit by reference to national best practice benchmarks be reviewed.

Hayley McGrath stated that there is a usual imbalance at 6 months, as more of the audited days are used in the second half of the year compared to the first. Hayley McGrath also highlighted that there had been increases in assurance ratings to Full for the Visitor Information Centre Cash up, Fuel Usage, Housing Benefit/Local Council Tax Support and Leisure World Cash Up. Hayley McGrath also highlighted that the audit of IT Capital Revenues and Use of Machinery/Vehicles had given a limited assurance level. All recommendations from the limited audits have been accepted.

In response to a query from Councillor Pearson, Hayley McGrath confirmed that the number of audit days allocated to each part of the year is fluid. Whilst audits are planned in different service areas there may be reasons why days need to be moved either through time off, or significant issues; Hayley McGrath confirmed that there had been some circumstances of this so far this year. Going forward, some of the days that have not been used have been reallocated.

Councillor Willetts questioned whether it is possible for Colchester Borough Council to have fully tested a disaster recovery plan given the capacity required to do it. Hayley McGrath stated that the IT system as a whole has not been tested, but the key systems have testing built in, for example, the housing systems are tested each year. The whole ICT system was moved last year, which required the systems being switched off and powered back on; this was completed successfully.

Councillor Willetts also questioned, with regard to the audit of the use of machinery/vehicles, whether there had been any employees driving council vehicles in circumstances that would invalidate the insurance. Hayley McGrath stated that there is a robust system in place including a comprehensive handbook which includes the requirement to check licenses often. The reason behind the recommendation following the audit being classed as a category 1 is due to gaps in the recording of information.

Councillor Pearson requested further information about which recommendations had been implemented. Alan Woodhead, Mazars, stated that the recommendations go through periodic and ad-hoc reviews; the implementation date for the recommendations is 30 November, and this will be reviewed next month.

RESOLVED that the internal audit activity for the period 1 April 2016-30 September 2016 and the performance of internal audit be noted.

44. Risk Management Progress Report

Hayley McGrath, Corporate Governance Manager, introduced the Risk Management Progress report. The report requests that the Committee note and comment upon the work undertaken during the period 1 April to 30 September 2016 and the current strategic risk register.

Hayley McGrath stated that this was a quarterly update on risk management at Colchester Borough Council. A review of the risks had taken place with the Executive and Senior Management teams during September; no changes were recommended. Hayley McGrath stated that the key risk continues to be the potential impact of future government decisions to reduce public funding or that of Colchester Borough Council partners. The second key risk relates to the failure or inappropriate performance management of one or more strategic partnerships or key contracts.

Hayley McGrath confirmed that a full review of the risks would be undertaken in March as part of the Governance review; this will involve a series of meetings with each area of the Council.

Councillor Pearson welcomed the report, and concurred with the assessment provided by Officers.

RESOLVED that the work undertaken during the period 1 April to 30 September 2016 and the current strategic risk register be noted.

7 March 2017

Report of	Assistant Chief Executive	Author	Jonathan Baker
Title	Work Programme 2016-17		☎ 282207
Wards affected	Not applicable		

This report sets out the current Work Programme 2016-2017 for the Governance and Audit Committee.

1. Decisions Required

- 1.1 The Committee is asked to note the contents Committee's Work Programme for 2016-17.

2. Alternative options

- 2.1 This function forms part of the Committee's Terms of Reference and, as such, no alternative options are presented.

3. Introduction

- 3.1 The Governance and Audit Committee deals with the approval of the Council's Statement of Accounts, audit, other miscellaneous regulatory matters and standards.
- 3.2 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.

4. Strategic Plan References

- 4.1 Governance is integral to the delivery of the Strategic Plan's vision themes of a vibrant, prosperous, thriving and welcoming Borough.
- 4.2 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.

5. Standard References

- 5.1 There are no particular references to publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety or risk management implications.

WORK PROGRAMME 2016-17

Meeting date / Agenda items
28 June 2016 <ol style="list-style-type: none"> 1. Audit Plan and Annual Audit & Certification Fees (Ernst and Young) 2. Draft Annual Statement of Accounts 2015/16 (Finance Manager) 3. Review of the Governance Framework and Draft Annual Governance Statement (Corporate Governance Manager) 4. Year End Internal Audit Assurance Report 2015/16 (Audit Manager and Corporate Governance Manager)
26 July 2016 <ol style="list-style-type: none"> 1. Annual Statement of Accounts 2015/16 (Finance Manager) 2. Complaints in relation to Councillor Buston 3. Review of Council Meetings and Procedures 4. 2015/16 Year End Review of Risk Management
13 September 2016 <ol style="list-style-type: none"> 1. Colchester Borough Homes Annual Report and Governance Statement 2. Annual Statement of Accounts 2015/16 3. Financial Monitoring Report – April to June 2016 4. Capital Expenditure Monitor 2016/17 5. Review of Meetings and Ways of Working
11 October 2016 <ol style="list-style-type: none"> 1. Review of Contract Management 2. Health and Safety Policy and Annual Report 3. Local Government Ombudsman Annual Review (Monitoring Officer) 4. Review of the Council's Ethical Governance Policies (Monitoring Officer) 5. Review of the Members' Code of Conduct and the Council's "Arrangements" (Monitoring Officer) 6. Gifts and Hospitality – Review of Guidance for Councillors and Policy for Officers (Monitoring Officer) 7. Review of Local Code of Corporate Governance (Monitoring Officer)
22 November 2016 <ol style="list-style-type: none"> 1. Annual Audit Letter (Ernst and Young) 2. Internal Audit Work Programme 2017/18 (Corporate Governance Manager) 3. Annual Review of Business Continuity (Corporate Governance Manager) 4. Equality and Safeguarding Annual Update 5. Treasury Management – Half Yearly Update
17 January 2017 <ol style="list-style-type: none"> 1. Certification of Claims and Returns – Annual Report 2015/16 (Ernst and Young) 2. Risk Management Progress Report (Corporate Governance Manager) 3. 2016-17 Interim Internal Audit Monitor (Corporate Governance Manager) 4. Annual Governance Statement Interim Review (Corporate Governance Manager)
7 March 2017 <ol style="list-style-type: none"> 1. Member/Officer Protocol – Councillor Lissimore 2. Audit Plan 3. Financial Monitoring Report – April to December 2016 4. Capital Expenditure Monitor 2016/17 5. Review of Meetings and Ways of Working progress update 6. Amendments to the Council's Covert Surveillance Policy 7. Income and Debt Policy 2017

7 March 2017

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Member / Officer Protocol – Councillor Lissimore		
Wards affected	Not applicable		

This report requests the Committee review the comments made by Councillor Lissimore at a council meeting and whether they breached the Member /Officer Protocol

1. Decision(s) Required

- 1.1 To determine whether the comments made by Councillor Lissimore at the Full Council meeting on 8 December 2016 in relation to a Council employee breached the Member / Officer Protocol and if so what action, if any, it considers appropriate in the circumstances.

2. Background

- 2.1 The Council as part of its Constitution has agreed a Member / Officer Protocol. The purpose of this protocol is to provide a guide to good working relationships between Councillors and Officers, to define the respective roles of Councillors and Officers and provide some principles governing conduct.
- 2.2 Paragraph 10 of the Protocol deals with constructive criticism / complaints and this is set out at Appendix 1 to this report.
- 2.3 The Full Council has agreed that part of the terms of reference of this Committee is responsibility for promoting and maintaining high standards of conduct by Members and Co-opted Members of the Council and monitoring the Member / Officer Protocol.
- 2.4 Any breach of the Member / Officer Protocol is dealt with separately to the Member's Code of Conduct Localism Act Arrangements and it is for this Committee to determine what action, if any, it considers appropriate in the circumstances.

3. The comments made by Councillor Lissimore

- 3.1 At the Full Council meeting on 8 December 2016 during the agenda item on Questions to the Leader, Cabinet Members and Chairmen of Panels and Committees, Councillor Lissimore asked the following question of the Leader of the Council, Councillor Smith:

"What action will he take over a situation in St Mary's car park today at 11am when a Colchester Council employee was witnessed kicking a homeless man who was on the floor of the stairwell?"

Councillor Smith replied that he would look it into it if Councillor Lissimore provided the details.

Councillor Lissimore responded *"a video was taken after the incident that will identify the perpetrators....."*

- 3.2 The Committee needs to consider whether Councillor Lissimore's comments amounted to a breach of Paragraph 10 (3) of the Member / Officer Protocol, which states

"Members should not raise matters relating to the conduct or capability of an individual Council Officer or Officers collectively at meetings held in public."

- 3.3 This matter has been referred to the Committee at the request of the Leader of the Council, the Liberal Democrat Group Leader, Councillor Higgins, the Labour Group Leader, Councillor T. Young and the Highwoods Independent Group Leader, Councillor B. Oxford.
- 3.4 Councillor Lissimore's question followed the posting on social media earlier that day of comments and a video which alleged that a person had witnessed a Council employee kicking a homeless person. The question to the Leader of the Council was the first time that either the Leader of the Council or the Chief Executive were made aware of the alleged incident.
- 3.5 Councillor Lissimore by referring to the allegation in a public meeting, criticised the conduct of a council employee. Furthermore by referring to the employee as "the perpetrator" implied that they were guilty of the action mentioned. Councillor Lissimore asked the Leader of the Council to investigate the incident.
- 3.6 The Leader of the Council and the Monitoring Officer have both separately emailed Councillor Lissimore and requested that she consider apologising for making the comments. Councillor Lissimore has commented *"As I still to this date do not know who the alleged perpetrator was, and from the video footage, it is impossible to identify them unless one knew who they were looking for, then I do not feel I have a case to apologise for."*

As the leader of the council was not aware of the incident even though it had been widely distributed by the general public on social media, I felt it was my duty as a Councillor when CBC is brought in to disrepute that the leader should be aware. I still believe that to be true."

- 3.7 The incident at St. Mary's car park has been the subject of an internal council investigation where the Council employee and the homeless person concerned were interviewed. The person who posted the allegation on social media has been separately interviewed and has made a statement. The Police have also undertaken their own enquires at the request of the Council. However, all of this is background information but is not pertinent to why this matter has been referred to this Committee which needs to solely deal with the question posed at paragraph 3.2 above.

4. Options for the Committee

- 4.1 The Committee has the ability to use the Council's powers of self-regulation and the following options (or combination) are available to enable it to deal with this matter:

- (a) No further action;
- (b) Report its findings to Full Council for information;
- (c) Recommend to Full Council that the councillor be issued with a formal censure or be reprimanded
- (d) Recommend to the councillor's Group Leader that the councillor be removed from any or all Committees or Panels of the Council;
- (e) Instruct the Monitoring Officer to arrange training for the councillor;
- (f) Recommend to Full Council to remove from all outside appointments to which he/she has been appointed or nominated by the Council;

- (g) Recommend to Full Council to withdraw facilities provided to the councillor by the Council, such as a computer, website and/or email and internet access; or
- (h) Recommend to Full Council to 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.

4.2 Any option(s) applied need to be reasonable and proportionate.

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 aims to set out the direction and future potential for our Borough.

6. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health, Publicity and Safety and Risk Management Implications

6.1 None identified.

Extract from the Member / Officer Protocol**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 criticise 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 he/she has not been treated with proper courtesy or has a concern about the conduct or capability of an Officer, he/she should raise the matter with the respective Head of Service. If he/she is not satisfied with the action that has been taken in response to this, he/she 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 he/she 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 he/she has not been treated with respect or is concerned about any action or statement relating to him/herself or a colleague by a Member, or conduct of a Member, the Officer should raise the matter with his/her Head of Service. If the Officer is not satisfied with any action that has been taken as a result, the Officer should raise the matter with his/her Executive Director. If there is a serious case to answer the Executive Director, with the agreement of the Chief Executive, may request that the matter be investigated through the Council's Governance 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.

7 March 2017

Report of	Assistant Chief Executive	Author	Steve Heath
Title	Audit Plan		282389
Wards affected	Not applicable		

The accompanying report from Ernst & Young sets out their Audit Plan for the financial year ending 31 March 2017

1. Action required

- 1.1 To review the contents of the Audit Plan for year ending 31 March 2017.

2. Reason for scrutiny

- 2.1 The Accounts and Audit Regulations require the Council to review the proposed audit approach and scope for the 2017 audit.
- 2.2 To ensure that the audit is aligned with the Committee's service expectations.

3. Supporting information

- 3.1 The Audit Plan for year ending 31 March 2017 summarises the Auditor's assessment of the key financial statement and value for money risks facing the Council, and outlines the planned audit strategy in response to those risks.

4. Strategic Plan references

- 4.1 The objectives and priorities of the Strategic Plan informed all stages of the budget process for 2016/17.

5. Other Standard References

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

Attached Documents:

Audit Plan for year ending 31 March 2017

Colchester Borough Council

Year ending 31 March 2017

Audit Plan

15 February 2017

Ernst & Young LLP



Building a better
working world

Governance and Audit Committee
Colchester Borough Council
Rowan House
33 Sheepen Road
Colchester
CO3 3WG

15 February 2017

Dear Committee Members

Audit Plan

We are pleased to attach our Audit Plan which sets out how we intend to carry out our responsibilities as auditor. Its purpose is to provide the Governance & Audit Committee with a basis to review our proposed audit approach and scope for the 2016-17 audit in accordance with the requirements of the Local Audit and Accountability Act 2014, the National Audit Office's 2015 Code of Audit Practice, the Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA) Ltd, auditing standards and other professional requirements. It is also to ensure that our audit is aligned with the Committee's service expectations.

This plan summarises our initial assessment of the key risks driving the development of an effective audit for the Council and outlines our planned audit strategy in response to those risks.

We welcome the opportunity to discuss this plan with you on 7 March 2017 and to understand whether there are other matters which you consider may influence our audit.

Yours faithfully

Kevin Suter
Executive Director
For and behalf of Ernst & Young LLP
Enc

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In April 2015 Public Sector Audit Appointments Ltd (PSAA) issued "Statement of responsibilities of auditors and audited bodies 2015-16". It is available from the Chief Executive of each audited body and via the PSAA website (www.psaa.co.uk)

The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas.

The 'Terms of Appointment from 1 April 2015' issued by PSAA sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code) and statute, and covers matters of practice and procedure which are of a recurring nature.

This Audit Plan is prepared in the context of the Statement of responsibilities. It is addressed to the Governance Committee, and is prepared for the sole use of the audited body. We, as appointed auditor, take no responsibility to any third party.

Our Complaints Procedure - If at any time you would like to discuss with us how our service to you could be improved, or if you are dissatisfied with the service you are receiving, you may take the issue up with your usual partner or director contact. If you prefer an alternative route, please contact Steve Varley, our Managing Partner, 1 More London Place, London SE1 2AF. We undertake to look into any complaint carefully and promptly and to do all we can to explain the position to you. Should you remain dissatisfied with any aspect of our service, you may of course take matters up with our professional institute. We can provide further information on how you may contact our professional institute.

1. Overview

Context for the audit

This Audit Plan covers the work that we plan to perform to provide you with:

- ▶ Our audit opinion on whether the financial statements of Colchester Borough Council give a true and fair view of the financial position as at 31 March 2017 and of the income and expenditure for the year then ended; and
- ▶ Our conclusion on the Council's arrangements to secure economy, efficiency and effectiveness.

We will also review and report to the National Audit Office (NAO), to the extent and in the form required by them, on the Council's Whole of Government Accounts return.

When planning the audit we take into account several key inputs:

- ▶ Strategic, operational and financial risks relevant to the financial statements;
- ▶ Developments in financial reporting and auditing standards;
- ▶ The quality of systems and processes;
- ▶ Changes in the business and regulatory environment; and
- ▶ Management's views on all of the above.

By considering these inputs, our audit is focused on the areas that matter and our feedback is more likely to be relevant to the Council.

2. Financial statement risks

We outline below our assessment of the financial statement risks facing the Council, identified through our knowledge of the Council's operations and discussion with those charged with governance and officers.

At our meeting, we will seek to validate these with you.

Significant risks (including fraud risks)	Our audit approach
Risk of fraud in revenue recognition	
<p>Under ISA240 there is a presumed risk that revenue may be misstated due to improper recognition of revenue.</p> <p>In the public sector, this requirement is modified by Practice Note 10, issued by the Financial Reporting Council, which states that auditors should also consider the risk that material misstatements may occur by the manipulation of expenditure recognition.</p> <p>Having assessed the key income and expenditure streams of the Council, we judge that there is material opportunity and incentive for the incorrect classification of revenue spend as capital expenditure.</p>	<p>We will:</p> <ul style="list-style-type: none"> ▶ Review capital expenditure on property, plant and equipment to ensure it meets the relevant accounting requirements to be capitalised.
Risk of management override	
<p>As identified in ISA (UK and Ireland) 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively. We identify and respond to this fraud risk on every audit engagement.</p>	<p>Our approach will focus on:</p> <ul style="list-style-type: none"> ▶ Testing the appropriateness of journal entries recorded in the general ledger and other adjustments made in the preparation of the financial statements; ▶ Reviewing accounting estimates for evidence of management bias; and ▶ Evaluating the business rationale for significant unusual transactions.

Other financial statement risks

Presentation of the financial statements	
<p>Amendments have been made to the Code of Practice on Local Authority Accounting in the United Kingdom 2016-17 (the Code) changing the way the financial statements are presented.</p> <p>The new reporting requirements impact the Comprehensive Income and Expenditure Statement (CIES) and the Movement in Reserves Statement, and include the introduction of a new Expenditure and Funding Analysis note as a result of the 'Telling the Story' review of the presentation of local authority financial statements.</p> <p>The Code no longer requires statements or notes to be prepared in accordance with Service Reporting Code of Practice. Instead the Code requires that the service analysis is based on the organisational structure under which the authority operates. We expect this to show the Council's segmental analysis.</p> <p>This change in the Code will require a new structure for the primary statements, new notes and full retrospective restatement of comparatives. This restatement will require audit review, which could potentially incur additional costs, depending on the complexity and manner in which the changes are made.</p>	<p>Our approach will focus on:</p> <ul style="list-style-type: none"> ▶ Reviewing the expenditure and funding analysis, CIES and new disclosure notes to ensure disclosures are in line with the Code; ▶ Reviewing the analysis of how these figures are derived, how the ledger system has been re-mapped to reflect the Council's organisational structure and how overheads are apportioned across the service areas reported; and ▶ Agreeing restated comparative figures to the Council's segmental analysis and supporting working papers.

Property, plant and equipment valuations

Property, Plant and Equipment (PPE) represents a material item on the Council's balance sheet. PPE is initially measured at cost and then revalued to fair value (determined by the amount that would be paid for the asset in its existing use) on a 5 year rolling basis. This is carried out by an expert valuer and is based on a number of complex assumptions. Annually assets are assessed to identify whether there is any indication of impairment.

ISAs (UK and Ireland) 500 and 540 require us to undertake procedures on the use of experts and assumptions underlying fair value estimates.

Our approach will focus on:

- ▶ Reliance on management's valuation experts. This will include comparison to industry valuation trends and reliance on our own valuation experts where significant unexplained variations are identified;
- ▶ Testing the accounting treatment of valuations made in the year, including the assessment and treatment of impairments; and
- ▶ Reviewing and testing the Council's application of IFRS13 to ensure the fair value of relevant assets is based on economic best interest.

Pensions valuations and disclosures

The Local Authority Accounting Code of Practice and IAS19 require the Council to make extensive disclosures within its financial statements regarding the Local Government Pension Scheme (LGPS) in which it is an admitted body.

The Council's current pension fund deficit is a highly material and sensitive item and the Code requires that this liability be disclosed on the Council's Balance Sheet.

The information disclosed is based on the IAS19 report issued to the Council by the actuaries to the Essex Pension Fund.

As part of their actuarial review, councils are being asked to make additional payments to the pensions scheme to fund deficits.

Our approach will focus on:

- ▶ Liaising with the auditors of the Essex Pension Fund, to obtain assurances over the information supplied to the actuary in relation to Colchester Borough Council;
- ▶ Assessing the conclusions drawn on the work of the actuary by the Consulting Actuary commissioned by Public Sector Auditor Appointments, PwC; and
- ▶ Reviewing and testing the accounting entries and disclosures made in relation to IAS19.

2.1 Responsibilities in respect of fraud and error

We would like to take this opportunity to remind you that management has the primary responsibility to prevent and detect fraud. It is important that management, with the oversight of those charged with governance, has a culture of ethical behaviour and a strong control environment that both deters and prevents fraud.

Our responsibility is to plan and perform audits to obtain reasonable assurance about whether the financial statements as a whole are free of material misstatements whether caused by error or fraud. As auditors, we approach each engagement with a questioning mind that accepts the possibility that a material misstatement due to fraud could occur, and design the appropriate procedures to consider such risk.

Based on the requirements of auditing standards our approach will focus on:

- ▶ Identifying fraud risks during the planning stages;
- ▶ Enquiry of management about risks of fraud and the controls to address those risks;
- ▶ Understanding the oversight given by those charged with governance of management's processes over fraud;
- ▶ Consideration of the effectiveness of management's controls designed to address the risk of fraud;
- ▶ Determining an appropriate strategy to address any identified risks of fraud; and
- ▶ Performing mandatory procedures regardless of specifically identified fraud risks.

3. Value for money risks

We are required to consider whether the Council has put in place 'proper arrangements' to secure economy, efficiency and effectiveness on its use of resources.

For 2016-17 this is based on the overall evaluation criterion:

"In all significant respects, the audited body had proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people"

Proper arrangements are defined by statutory guidance issued by the National Audit Office. They comprise your arrangements to:

- Take informed decisions;
- Deploy resources in a sustainable manner; and
- Work with partners and other third parties.

In considering your proper arrangements, we will draw on the requirements of the CIPFA/SOLACE framework for local government to ensure that our assessment is made against a framework that you are already required to have in place and to report on through documents such as your annual governance statement.

We are only required to determine whether there are any risks that we consider significant, which the Code of Audit Practice defines as:

"A matter is significant if, in the auditor's professional view, it is reasonable to conclude that the matter would be of interest to the audited body or the wider public"

Our risk assessment supports the planning of sufficient work to enable us to deliver a safe conclusion on arrangements to secure value for money and enables us to determine the nature and extent of further work that may be required. If we do not identify any significant risks there is no requirement to carry out further work.

Our risk assessment has therefore considered both the potential financial impact of the issues we have identified, and also the likelihood that the issue will be of interest to local taxpayers, the Government and other stakeholders. This has resulted in the following significant VFM risk which we view as relevant to our value for money conclusion.

Significant value for money risks	Our audit approach
Sustainable resource deployment: Achievement of savings needed over the medium term	
<p>To date the Council has responded well to the financial pressure resulting from the continuing economic downturn.</p> <p>However, the Council continues to face significant financial challenges over the next three to four years, with a forecasted underlying budget gap of £2.5m by 2020-21.</p> <p>Given the scale of the savings needed, there is a risk that savings plans to bridge this gap are not robust and/or achievable.</p>	<p>Our approach will continue to focus on:</p> <ul style="list-style-type: none"> ▶ The adequacy of the Council's budget monitoring process, comparing budget to outturn. ▶ The robustness of any assumptions used in medium term planning. ▶ The savings plans in place, and assessing the likelihood of whether these plans can provide the Council with the required savings/efficiencies over the medium term.

We will keep our risk assessment under review throughout our audit and communicate to the Governance and Audit Committee any revisions to the specific risks identified here and any additional local risk-based work we may need to undertake as a result.

4. Our audit process and strategy

4.1 Objective and scope of our audit

Under the Code of Audit Practice (the Code) our principal objectives are to review and report on, the Council's:

- ▶ Financial statements; and
- ▶ Arrangements for securing economy, efficiency and effectiveness in its use of resources to the extent required by the relevant legislation and the requirements of the Code.

We issue an audit report that covers:

1. Financial statement audit

Our objective is to form an opinion on the financial statements under International Standards on Auditing (UK and Ireland).

Alongside our audit report, we also:

- ▶ Review and report to the NAO on the Whole of Government Accounts return to the extent and in the form they require; and

2. Arrangements for securing economy, efficiency and effectiveness (value for money)

We are required to consider whether the Council has put in place 'proper arrangements' to secure economy, efficiency and effectiveness in its use of resources.

4.2 Audit process overview

Our intention is to carry out a mainly substantive audit in 2016-17 and placing reliance on the controls over payroll as we believe this to be the most efficient audit approach. The overarching control arrangements of the Council form part of our assessment of your overall control environment and will form part of the evidence for your Annual Governance Statement. We will review the work completed by internal audit as part of this element of our work.

Analytics

We will use our computer-based analytics tools to enable us to capture whole populations of your financial data, in particular journal entries. These tools:

- ▶ Help identify specific exceptions and anomalies which can then be subject to more traditional substantive audit tests
- ▶ Give greater likelihood of identifying errors than random sampling techniques.

Internal audit

As in prior years, we will review internal audit plans and the results of their work. We will reflect the findings from these reports, together with reports from any other work completed in the year, in our detailed audit plan, where we raise issues that could have an impact on the year-end financial statements.

Use of specialists

When auditing key judgements, we are often required to rely on the input and advice provided by specialists who have qualifications and expertise not possessed by the core audit team. The areas where either EY or third party specialists provide input for the current year audit are:

Area	Specialists
Property, plant and equipment	Norfolk Property Services (the Council's property advisor)
Pensions	EY Pensions Advisory, PwC (Consulting Actuary to the PSAA) and Barnett Waddingham (Essex Pension Fund actuary)

In accordance with Auditing Standards, we will evaluate each specialist's professional competence and objectivity, considering their qualifications, experience and available resources, together with the independence of the individuals performing the work.

We also consider the work performed by the specialist in light of our knowledge of the Council environment and processes and our assessment of audit risk in the particular area. For example, we would typically perform the following procedures:

- ▶ Analyse source data and make inquiries as to the procedures used by the expert to establish whether the source data is relevant and reliable;
- ▶ Assess the reasonableness of the assumptions and methods used;
- ▶ Consider the appropriateness of the timing of when the specialist carried out the work; and
- ▶ Assess whether the substance of the specialist's findings are properly reflected in the financial statements.

4.3 Mandatory procedures required by auditing standards

As well as the financial statement risks (section two) and value for money risks (section three), we must perform other procedures as required by auditing, ethical and independence standards, the Code and other regulations. We outline below the procedures we will undertake during the course of our audit.

Procedures required by standards

- ▶ Addressing the risk of fraud and error;
- ▶ Significant disclosures included in the financial statements;
- ▶ Entity-wide controls;
- ▶ Reading other information contained in the financial statements and reporting whether it is inconsistent with our understanding and the financial statements; and
- ▶ Auditor independence.

Procedures required by the Code

- ▶ Reviewing, and reporting on as appropriate, other information published with the financial statements, including the Annual Governance Statement.
- ▶ Reviewing and reporting on the Whole of Government Accounts return, in line with the instructions issued by the NAO.

Finally, we are also required to discharge our statutory duties and responsibilities as established by the Local Audit and Accountability Act 2014.

4.4 Materiality

For the purposes of determining whether the financial statements are free from material error, we define materiality as the magnitude of an omission or misstatement that, individually or in aggregate, could reasonably be expected to influence the users of the financial statements. Our evaluation requires professional judgement and so takes into account qualitative as well as quantitative considerations implied in the definition.

We have determined that overall materiality for the financial statements of the Council is £2.9 million based on 2% gross operating expenditure. We will communicate uncorrected audit misstatements greater than £146k to you.

The amount we consider material at the end of the audit may differ from our initial determination. At this stage, however, it is not feasible to anticipate all the circumstances that might ultimately influence our judgement. At the end of the audit we will form our final opinion by reference to all matters that could be significant to users of the financial statements, including the total effect of any audit misstatements, and our evaluation of materiality at that date.

4.5 Fees

The duty to prescribe fees is a statutory function delegated to Public Sector Audit Appointments Ltd (PSAA) by the Secretary of State for Communities and Local Government. PSAA has published a scale fee for all relevant bodies. This is defined as the fee required by auditors to meet statutory responsibilities under the Local Audit and Accountability Act 2014 in accordance with the NAO Code. The indicative fee scale for the audit of Colchester Borough Council is £62,582 (£62,582 2015-16).

We have also undertaken non-audit work outside of the Code requirements on claims work on the Housing Pooling return. Further information is provided in Appendix A.

4.6 Your audit team

The engagement team is led by Kevin Suter, who has significant experience of local government audits, leading the audit on a number of Council's across the east of England. Kevin is supported by Dan Cooke who is responsible for the day-to-day direction of audit work, and who is the key point of contact for the finance team.

4.7 Timetable of communication, deliverables and insights

We have set out below a timetable showing the key stages of the audit, including the value for money work and the Whole of Government Accounts. The timetable includes the deliverables we have agreed to provide to the Council through the Governance and Audit Committee's cycle in 2016-17. These dates are determined to ensure our alignment with PSAA's rolling calendar of deadlines.

From time to time matters may arise that require immediate communication with the Governance and Audit Committee and we will discuss them with the Committee Chair as appropriate.

Following the conclusion of our audit we will prepare an Annual Audit Letter to communicate the key issues arising from our work to the Council and external stakeholders, including members of the public.

Audit phase	Timetable	Deliverables
High level planning	December	
Risk assessment and setting of scopes	January - February	Audit Plan (March committee meeting)
Early testing and testing routine processes and controls	February - April	Progress report (if needed)
Year-end audit and completion of audit	June - July	Report to those charged with governance via the Audit Results Report Audit report (including our opinion on the financial statements and, by exception overall value for money conclusion). Audit completion certificate Reporting to the NAO on the Whole of Government Accounts return.
Conclusion of reporting	September - October	Annual Audit Letter

In addition to the above formal reporting and deliverables we will seek to provide practical business insights and updates on regulatory matters.

5. Independence

5.1 Introduction

The APB Ethical Standards and ISA (UK and Ireland) 260 'Communication of audit matters with those charged with governance', requires us to communicate with you on a timely basis on all significant facts and matters that bear on our independence and objectivity. The Ethical Standards, as revised in December 2010, require that we do this formally both at the planning stage and at the conclusion of the audit, as well as during the audit if appropriate. The aim of these communications is to ensure full and fair disclosure by us to those charged with your governance on matters in which you have an interest.

Required communications	
Planning stage	Final stage
<ul style="list-style-type: none"> ▶ The principal threats, if any, to objectivity and independence identified by EY including consideration of all relationships between you, your affiliates and directors and us; ▶ The safeguards adopted and the reasons why they are considered to be effective, including any Engagement Quality Review; ▶ The overall assessment of threats and safeguards; ▶ Information about the general policies and process within EY to maintain objectivity and independence. 	<ul style="list-style-type: none"> ▶ A written disclosure of relationships (including the provision of non-audit services) that bear on our objectivity and independence, the threats to our independence that these create, any safeguards that we have put in place and why they address such threats, together with any other information necessary to enable our objectivity and independence to be assessed; ▶ Details of non-audit services provided and the fees charged in relation thereto; ▶ Written confirmation that we are independent; ▶ Details of any inconsistencies between APB Ethical Standards, the PSAA Terms of Appointment and your policy for the supply of non-audit services by EY and any apparent breach of that policy; and ▶ An opportunity to discuss auditor independence issues.

During the course of the audit we must also communicate with you whenever any significant judgements are made about threats to objectivity and independence and the appropriateness of our safeguards, for example when accepting an engagement to provide non-audit services.

We also provide information on any contingent fee arrangements, the amounts of any future contracted services, and details of any written proposal to provide non-audit services.

We ensure that the total amount of fees that EY and our network firms have charged to you and your affiliates for the provision of services during the reporting period are disclosed, analysed in appropriate categories.

5.2 Relationships, services and related threats and safeguards

We highlight the following significant facts and matters that may be reasonably considered to bear upon our objectivity and independence, including any principal threats. However we have adopted the safeguards below to mitigate these threats along with the reasons why they are considered to be effective.

Self-interest threats

A self-interest threat arises when EY has financial or other interests in your entity. Examples include where we have an investment in your entity; where we receive significant fees in respect of non-audit services; where we need to recover long outstanding fees; or where we enter into a business relationship with the Council.

At the time of writing, there are no long outstanding fees.

We believe that it is appropriate for us to undertake permissible non-audit services, and we will comply with the policies that the Council has approved and that are in compliance with the PSAA Terms of Appointment.

At the time of writing, the current ratio of non-audit fees to audit fees is approximately 6.7%. No additional safeguards are required.

A self-interest threat may also arise if members of our audit engagement team have objectives or are rewarded in relation to sales of non-audit services to the Council. We confirm that no member of our audit engagement team, including those from other service lines, is in this position, in compliance with Ethical Standard 4.

There are no other self-interest threats at the date of this report.

Self-review threats

Self-review threats arise when the results of a non-audit service performed by EY or others within the EY network are reflected in the amounts included or disclosed in the financial statements.

There are no self-review threats at the date of this report.

Management threats

Partners and employees of EY are prohibited from taking decisions on behalf of management of your entity. Management threats may also arise during the provision of a non-audit service where management is required to make judgements or decisions based on that work.

There are no management threats at the date of this report.

Other threats

Other threats, such as advocacy, familiarity or intimidation, may arise.

There are no other threats at the date of this report.

Overall Assessment

Overall we consider that the adopted safeguards appropriately mitigate the principal threats identified, and we therefore confirm that EY is independent and the objectivity and independence of Kevin Suter, the audit engagement Director, and the audit engagement team have not been compromised.

5.3 Other required communications

EY has policies and procedures that instil professional values as part of firm culture and ensure that the highest standards of objectivity, independence and integrity are maintained.

Details of the key policies and processes within EY for maintaining objectivity and independence can be found in our annual Transparency Report, which the firm is required to publish by law. The most recent version of this report is for the year ended June 2016 and can be found here:

<http://www.ey.com/UK/en/About-us/EY-UK-Transparency-Report-2016>

Appendix A Fees

A breakdown of our agreed fee is shown below.

	Planned Fee 2016-17 £	Scale Fee 2016-17 £	Outturn fee 2015-16 £	Explanation
Opinion Audit and VFM Conclusion	62,582	62,582	62,582	Scale fees are set by the PSAA
Total Audit Fee - Code work	62,582	62,582	62,582	
Certification of claims and returns	17,926	17,926 ¹	13,640 ²	
Non-audit work	4,250	-	4,250	Relates to the review of the Pooling of Housing Capital receipts return.

All fees exclude VAT.

^{*1}The planned fee for the certification of housing benefit subsidy is based on the programme of work carried out in 2014-15.

^{*2} The final outturn fee for 2015-16 is still subject to approval by the PSAA for an additional fee of £1,083 in relation to work carried out in 2015-16.

The agreed fee presented above is based on the following assumptions:

- ▶ Officers meeting the agreed timetable of deliverables;
- ▶ The operating effectiveness of the internal controls for the key processes outlined in section 4.2 above;
- ▶ Our accounts opinion and value for money conclusion being unqualified;
- ▶ Appropriate quality of documentation is provided by the Council; and
- ▶ The Council has an effective control environment.

If any of the above assumptions prove to be unfounded, we will seek a variation to the agreed fee. This will be discussed with the Council in advance.

Fees for the auditor's consideration of correspondence from the public and formal objections will be charged in addition to the scale fee.

Appendix B UK required communications with those charged with governance

There are certain communications that we must provide to the Governance and Audit Committee. These are detailed here:

Required communication	Reference
Planning and audit approach Communication of the planned scope and timing of the audit including any limitations.	► Audit Plan
Significant findings from the audit <ul style="list-style-type: none"> ► Our view about the significant qualitative aspects of accounting practices including accounting policies, accounting estimates and financial statement disclosures ► Significant difficulties, if any, encountered during the audit ► Significant matters, if any, arising from the audit that were discussed with management ► Written representations that we are seeking ► Expected modifications to the audit report ► Other matters if any, significant to the oversight of the financial reporting process 	► Report to those charged with governance
Misstatements <ul style="list-style-type: none"> ► Uncorrected misstatements and their effect on our audit opinion ► The effect of uncorrected misstatements related to prior periods ► A request that any uncorrected misstatement be corrected ► In writing, corrected misstatements that are significant 	► Report to those charged with governance
Fraud <ul style="list-style-type: none"> ► Enquiries of the Governance and Audit Committee to determine whether they have knowledge of any actual, suspected or alleged fraud affecting the entity ► Any fraud that we have identified or information we have obtained that indicates that a fraud may exist ► A discussion of any other matters related to fraud 	► Report to those charged with governance
Related parties Significant matters arising during the audit in connection with the entity's related parties including, when applicable: <ul style="list-style-type: none"> ► Non-disclosure by management ► Inappropriate authorisation and approval of transactions ► Disagreement over disclosures ► Non-compliance with laws and regulations ► Difficulty in identifying the party that ultimately controls the entity 	► Report to those charged with governance
External confirmations <ul style="list-style-type: none"> ► Management's refusal for us to request confirmations ► Inability to obtain relevant and reliable audit evidence from other procedures 	► Report to those charged with governance
Consideration of laws and regulations <ul style="list-style-type: none"> ► Audit findings regarding non-compliance where the non-compliance is material and believed to be intentional. This communication is subject to compliance with legislation on tipping off ► Enquiry of the Governance and Audit Committee into possible instances of non-compliance with laws and regulations that may have a material effect on the financial statements and that the Governance and Audit Committee may be aware of 	► Report to those charged with governance

Required communication	Reference
Independence Communication of all significant facts and matters that bear on EY's objectivity and independence Communication of key elements of the audit engagement director's consideration of independence and objectivity such as: <ul style="list-style-type: none"> ▶ The principal threats ▶ Safeguards adopted and their effectiveness ▶ An overall assessment of threats and safeguards ▶ Information about the general policies and process within the firm to maintain objectivity and independence 	<ul style="list-style-type: none"> ▶ Audit Plan ▶ Report to those charged with governance
Going concern Events or conditions identified that may cast significant doubt on the entity's ability to continue as a going concern, including: <ul style="list-style-type: none"> ▶ Whether the events or conditions constitute a material uncertainty ▶ Whether the use of the going concern assumption is appropriate in the preparation and presentation of the financial statements ▶ The adequacy of related disclosures in the financial statements 	<ul style="list-style-type: none"> ▶ Report to those charged with governance
Significant deficiencies in internal controls identified during the audit	<ul style="list-style-type: none"> ▶ Report to those charged with governance
Fee Information <ul style="list-style-type: none"> ▶ Breakdown of fee information at the agreement of the initial audit plan ▶ Breakdown of fee information at the completion of the audit 	<ul style="list-style-type: none"> ▶ Audit Plan ▶ Report to those charged with governance ▶ Annual Audit Letter if considered necessary
Group audits <ul style="list-style-type: none"> ▶ An overview of the type of work to be performed on the financial information of the components ▶ An overview of the nature of the group audit team's planned involvement in the work to be performed by the component auditors on the financial information of significant components ▶ Instances where the group audit team's evaluation of the work of a component auditor gave rise to a concern about the quality of that auditor's work ▶ Any limitations on the group audit, for example, where the group engagement team's access to information may have been restricted ▶ Fraud or suspected fraud involving group management, component management, employees who have significant roles in group-wide controls or others where the fraud resulted in a material misstatement of the group financial statements 	<ul style="list-style-type: none"> ▶ Audit Plan
Certification work <ul style="list-style-type: none"> ▶ Summary of certification work undertaken 	<ul style="list-style-type: none"> ▶ Annual report to those charged with governance summarising grant certification ▶ Annual Audit Letter if considered necessary

Appendix C Detailed Scopes

Our objective is to form an opinion on the group's consolidated financial statements under International Standards on Auditing (UK and Ireland).

We set audit scopes for each reporting unit which together enable us to form an opinion on the group accounts. We take into account the size, risk profile, changes in the business environment and other factors when assessing the level of work to be performed at each reporting unit.

The preliminary audit scopes we have adopted to enable us to report on the group accounts are set out below. Our audit approach is risk-based, and therefore the data below on coverage of gross revenue expenditure and total assets is provided for your information only.

Group audit scope	Entity	% of GRE
Full	Colchester Borough Council (single entity)	91.4
Specific	Colchester Borough Homes	8.4
On site limited	-	-
Off-site limited (desktop)	Colchester Community Stadium Limited-	0.2
Other procedures		

- ▶ **Full scope:** locations deemed significant based on size and those with significant risk factors are subject to a full scope audit, covering all significant accounts and processes using materiality levels assigned by the Group audit team for the purposes of the consolidated audit. Procedures are full-scope in nature, but may not be sufficient to issue a stand-alone audit opinion on the local statutory financial statements (as materiality thresholds support to the consolidated audit).
- ▶ **Specific scope:** locations where only specific procedures are performed by the local audit team, based upon procedures, accounts or assertions identified by the Group audit team.
- ▶ **Limited Scope:** limited scope procedures primarily consist of enquiries of management and analytical review. On-site or desk top reviews may be performed, according to our assessment of risk.
- ▶ **Other procedures:** For those locations that we do not consider material to the Group financial statements in terms of size relative to the Group and risk, we perform other procedures to confirm that there is no risk of material misstatement within those locations. Individually, these components do not exceed more than 15% of the Group's gross revenue expenditure.

These other procedures will include:

- ▶ Obtaining the final accounts of the component to ensure the disclosure held in the Council's group accounts in respect of the investment in associate is fairly stated.
- ▶ Obtaining the component auditor's ISA260 report to ensure there are no findings or uncorrected errors in the component accounts, which could materially impact the Council's group accounts.

ISA 600 (UK and Ireland) requires that we provide you with an overview of the nature of our planned involvement in the work to be performed by the component auditors of significant locations/reporting units. Our involvement can be summarised as follows:

Location name	Other comments
Colchester Borough Homes - Specific testing	We will carry out direct testing of the Income and expenditure recorded in the accounts of Colchester Borough Homes to provide assurance over the transactions recorded in the group accounts. We will also review the final audited statements of CBH and the auditors board report.
Colchester Community Stadium Limited – Limited scope location	We will review the final audited financial statements of CCSL, and the auditor's board report when performing our tests of consolidation and analytical review of amounts feeding into the group statements.

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7 March 2017

Report of	Assistant Chief Executive	Author	Sean Plummer ☎ 282347 Darren Brown ☎ 282891
Title	Financial Monitoring Report – April to December 2016		
Wards affected	Not applicable		

The Committee is invited to review the financial performance of all General Fund services and the Housing Revenue Account for the first nine months of 2016/17

1. Action required

- 1.1 The Committee is asked to consider the financial performance of General Fund Services and the Housing Revenue Account (HRA) for the first nine months of 2016/17.

2. Reason for scrutiny

- 2.1 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.
- 2.2 This report also gives the committee the opportunity to hold Service Managers and Portfolio Holders accountable for their budgets.

3. Background and Summary Position

- 3.1 This report reviews the Council's overall position based on profiled income and expenditure for the nine months to 31 December 2016, 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.
- 3.2 The projected outturn for the General Fund is currently a net overspend of £691k. The Housing Revenue Account forecast outturn position is currently to be on budget.
- 3.3 The General Fund position is set out in more detail in the following paragraphs and the HRA position explained in section 6. Budgets carried forward from 15/16 are now included in the schedules within this report, and as such will be monitored as part of the overall position.

4. General Fund – Position to 31 December 2016

Service Budgets

- 4.1 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 £622k (favourable). This comprises total expenditure being £623k lower than expected and total income being £1k lower than expected. Appendix B breaks these variances down by subjective group.
- 4.2 It should be noted that the majority of the favourable variance to date for this financial year is related to less expenditure, which primarily is within Customer and Operational services. The forecast net outturn position discussed in section 5 is higher than the position to date, and this reflects a number of factors, such as:
- Income either decreasing, or not continuing at the level to date for the remainder of the financial year.
 - The profiling of budgets and the impact of changes in spending and income patterns.
 - Areas where adjustments will take place as part of the closure of accounts (for example where income has been received in the current year but relates to the next financial year).
 - Budgets currently unspent for which a carry forward at year-end may be identified
- 4.3 We are expecting there to be a number of carry forward requests for projects that have started but will not be fully spent in the current financial year, so in some respect the position to date is to be expected as the outturn forecast does not show underspends that may be carried forward, unless indicated.

Income

- 4.4 As reported at Quarter 2 to Scrutiny Panel, income is below targets in a number of areas to date although it should be noted that some of the shortfalls are small in monetary terms. The most notably shortfalls are within Community Alarms and Sport & Leisure, however, in both these areas cost savings have been identified to partly mitigate the pressure. We have however achieved more income in Parking and Trade Waste. As one of our main risk areas, income will continue to be closely monitored by officers on a monthly basis.

Expenditure

- 4.5 There are underspends against profiled budgets in most services areas, predominantly within employee, premises and supplies & services costs. This can be a result of profiling of budgets as well as timing of expenditure. Committee members will be aware from previous reports that as part of the 2017/18 budget setting process, we have undertaken a further outturn review which takes into account the 2015/16 outturn position.
- 4.6 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.

5. Outturn Forecast / Risk Areas

- 5.1 This is the third review this year of the 2016/17 budget position, and the current forecast outturn is a potential net overspend of £691k.

	£'000	
Service budgets	606	See paras. 5.2 – 5.3 and Appendix C
Technical Items	(25)	See paras 5.4 – 5.7
C/Fwd identified	110	See para 5.8
Potential net overspend	691	

Service Budgets

- 5.2 The following table sets out the forecast outturn for all service areas with outturn variances. This shows a net forecast overspend of £606k. The main areas that make up this overspend are highlighted at paragraph 5.9.

Service	Forecast outturn		
	<i>Expenditure</i>	<i>Income</i>	<i>Net</i>
	£'000	£'000	£'000
Corporate & Financial Management	100	(22)	78
EMT	30	-	30
Community Services	70	49	119
Commercial Services	315	464	779
Customer Services	(101)	(117)	(218)
Operational Services	(451)	239	(212)
Professional Services	23	7	30
Total all services	(14)	620	606

- 5.3 Appendix C sets out details of all forecast variances against service budgets at the year-end totalling £606k.

Corporate / Technical Items

- 5.4 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.
- 5.5 It is currently forecast that net interest costs will be £5k more than the budget, due to the combination of less interest rechargeable to the HRA due to a reduction in the level of HRA borrowing required this year, and the low interest rates currently available on cash balances. With the growing prospect of short term interest rates reducing following the EU referendum result, there is potential for a further pressure on achieving investment income targets.
- 5.6 A saving of £95k is forecast for the year, resulting from a revised methodology agreed with external audit for calculating our MRP (Minimum Revenue Provision).
- 5.7 A saving of £75k from the insurance re-tender is anticipated in 16/17, which has been used to contribute towards the procurement target for the current financial year. This leaves a balance of £65k to find, and is included in the technical items forecast.
- 5.8 As part of the period 9 review, some areas of expenditure have been identified that will be the subject of a carry forward request at year-end, and have therefore been excluded from the overall forecast outturn position. These relate to a possible delay in the delivery of some LDF project work, works to the Mersea Pontoon and a Community Initiatives Grant.

Summary position and action proposed

- 5.9 The forecast outturn shows a potential net overspend of £691k. There are a number of factors which are contributing to this position, with the main ones being:-
- One-off unforeseen/unbudgeted costs, e.g. cost of recovering the Silver Leaf boat
 - Service-demand cost pressures, e.g. homelessness
 - Less income caused by external delays
 - Less income in some trading areas
- 5.10 The impact of budget reviews should be viewed alongside the forecast outturn for the year. Outturn reviews in previous years have been undertaken to ensure that budgets reflect best estimates and do not contain “contingencies”. This does mean that services have less scope to absorb unforeseen budget pressures and any requests for new spending that may arise in-year.
- 5.11 The financial position for 2016/17 was considered as part of the proposals set out in the 2017/18 budget and it was reported that the planning assumption was that the outturn position would be an overspend of £240k, which was the position at period 6. The updated forecast position reflects a larger overspend for the year.
- 5.12 Though there remain a number of risks, through management of the budget in the remainder of the year and consideration of requests for certain budgets to be “carried forward” into 2017/18, it is expected that we will deliver an outturn in line broadly in line with this budget assumption.
- 5.13 Heads of Service 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 final end of year position will be reported for scrutiny purposes and the impact of this on balances will be considered by Cabinet as part of the budget strategy for 2018/19.

6. Housing Revenue Account

- 6.1 The Housing Revenue Account (HRA) is a ring-fenced account which is affected by a number of variable factors. At the end of December 2016, the HRA is showing a net underspend of £843k compared to the profiled budget for the same period. This is primarily due to lower expenditure on Premises costs (£359k), Supplies & Services costs (£135k), and £295k more income than budgeted.

Position to date

- 6.2 Premises related costs are showing an underspend of £359k as at the end of December 2016. 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 £100k on Grounds Maintenance budgets, £45k on Council Tax on void properties and £50k on Utility and Water costs which relate to the timing of expenditure.
- 6.3 Supplies & Services costs are underspent by £135k at the end of December. There is a general underspend across most budget headings, which primarily relate to the timing of expenditure, the main factor being IT costs of £54k.
- 6.4 We have received £295k more income at the end of December 2016. This primarily reflects the late amendment by the Government to those properties which the 1% rent

reduction is applied to. At the time of setting the 16/17 budget, it was assumed that the Government's rent reduction applied to all properties. However, the Government then stated after the budget had been set, that it was their intention that temporary accommodation would be subject to a permanent exception, whilst sheltered housing accommodation would benefit from a one year exception whilst the Government are carrying out a review of supported accommodation. This has resulted in us receiving more income than originally assumed. Furthermore, the additional income also reflects the net impact of less 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, as well as additional income from rechargeable repairs.

Forecast Outturn

- 6.5 The HRA forecast outturn is to be on budget. Any underspend that occurs in the year will be used to fund a greater proportion of our Housing Capital Programme through an increased Revenue Contribution to Capital, thus minimising new borrowing and maximising our available headroom.

7. Strategic Plan references

- 7.1. The priorities within the Strategic Plan are reflected in the Medium Term Financial Forecast. This makes assumptions regarding government grant and Council Tax income, and identifies where necessary savings will be found in order to achieve a balanced budget. The 2016/17 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.

8. Financial implications

- 8.1. As set out above.

9. Risk management implications

- 9.1. Risk management is used throughout the budget cycle, and this is reflected in the strategic risk register. The 2016/17 revenue budget report that was approved by Council in February 2016 detailed a number of potentially significant risk areas that had been identified during the budget process. In addition, Heads of Service identify a number of both positive and negative risk areas during the year.

10. Other Standard References

- 10.1 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.

Background Papers

None

Current Budget Variances and Forecast Outturn Variances by Service Area

		Position to date			Forecast Outturn		
	Area	Spend	Income	Net	Spend	Income	Net
		£'000	£'000	£'000	£'000	£'000	£'000
Corporate & Democratic Core		(4)	-	(4)	6	-	6
	Total	(4)	-	(4)	6	-	6
Corporate & Financial Management							
	Assistant Chief Executive	59	-	59	40	-	40
	Finance	12	-	12	22	-	22
	ICT and Communications	(2)	(16)	(18)	12	(22)	(10)
	People and Performance	6	(1)	5	6	(1)	5
	Governance	(8)	-	(8)	14	1	15
	Total	67	(17)	50	94	(22)	72
Executive Management Team							
	EMT	17	(23)	(6)	30	-	30
	Partner Projects	-	-	-	-	-	-
	Total	17	(23)	(6)	30	-	30
Community Services							
	Head of Community Services	1	-	1	-	-	-
	Cultural Services	8	(12)	(4)	15	(10)	5
	Community Zones	(41)	36	(5)	70	57	127
	Community Development	(59)	(5)	(64)	(15)	2	(13)
	Colchester Museums	(17)	34	17	-	-	-
	Subtotal	(108)	53	(55)	70	49	119
	Colchester & Ipswich Museums	60	(22)	38	209	(19)	190
	Total	(48)	31	(17)	279	30	309
Commercial Services							
	Head of Commercial Services	34	-	34	(16)	-	(16)
	Place Strategy	12	(76)	(64)	(5)	(57)	(62)
	Economic Growth	116	(186)	(70)	227	164	391
	Corporate Asset Management	82	6	88	46	-	46
	Commercial - Trading	(234)	206	(28)	(235)	357	122
	Commercial - Housing	174	26	200	298	-	298
	Total	184	(24)	160	315	464	779

		Position to date			Forecast Outturn		
	Area	Spend	Income	Net	Spend	Income	Net
		£'000	£'000	£'000	£'000	£'000	£'000
Customer Services							
	Head of Customer Services	(4)	-	(4)	-	-	-
	Customer Operations	(85)	1	(84)	(57)	-	(57)
	Customer Demands & Research	(13)	(11)	(24)	-	(17)	(17)
	Customer Solutions	(114)	(100)	(214)	(65)	-	(65)
	Local Taxation & NNDR	7	(21)	(14)	21	(100)	(79)
	Subtotal	(209)	(131)	(340)	(101)	(117)	(218)
	Benefits - Payments & Subsidy	292	(663)	(371)	-	-	-
	Total	83	(794)	(711)	(101)	(117)	(218)
Operational Services							
	Head of Operational Services	(2)	-	(2)	-	-	-
	Sport & Leisure	(9)	123	114	(72)	162	90
	Recycling & Fleet	(201)	24	(177)	(162)	137	(25)
	Car Parking	(305)	(30)	(335)	(217)	(60)	(277)
	Subtotal	(517)	117	(400)	(451)	239	(212)
	Parking Partnership (NEPP)	60	(202)	(142)	(85)	(120)	(205)
	Total	(457)	(85)	(542)	(536)	119	(417)
Professional Services							
	Head of Professional Services	30	-	30	22	-	22
	Licensing & Food Safety	(1)	(16)	(17)	(23)	-	(23)
	Environmental Health Services	(19)	(4)	(23)	7	7	14
	Electoral Services	28	(7)	21	1	-	1
	Prof Support Units	(60)	(9)	(69)	7	-	7
	Land Charges	8	24	32	9	-	9
	Planning	(39)	38	(1)	-	-	-
	Total	(53)	26	(27)	23	7	30
	Total (excluding Benefits, NEPP & JMC)	(623)	1	(622)	(14)	620	606

Appendix 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
	Expenditure						
	Employees	17,926	18,224	(298)	23,759	24,311	(552)
	Premises Related	5,481	5,617	(136)	7,174	7,052	122
	Transport Related	1,967	2,027	(60)	2,885	2,959	(74)
	Supplies & Services	7,346	7,518	(172)	11,083	10,708	375
	Third Party Payments	1,736	1,694	42	2,350	2,235	115
	Transfer Payments	226	225	1	300	300	0
	Capital Financing Costs	110	110	0	110	110	0
	Total	34,792	35,415	(623)	47,661	47,675	(14)
	Income						
	Government Grant	(687)	(732)	45	(968)	(1,008)	40
	Other Grants & Reimbursements	(2,079)	(1,950)	(129)	(2,422)	(2,624)	202
	Customer & Client Receipts	(15,927)	(15,997)	70	(20,559)	(20,922)	363
	Income-Interest	(82)	(97)	15	(114)	(129)	15
	Inter Account Transfers	0	0	0	0	0	0
	Total	(18,775)	(18,776)	1	(24,063)	(24,683)	620
	Net	16,017	16,639	(622)	23,598	22,992	606

Forecast Outturn Variances

Service Area	Variance			Comment
	Spend £'000	Income £'000	Net £'000	
Corporate and Financial Management (incl. CDC)				
Corporate & Democratic Core	6	0	6	Overspend forecast on internet banking charges due to increased online activity.
Assistant Chief Executive	40	0	40	Overspend forecast due to vacancy factor savings for whole service not achieved at Period 9, due to lower staff turnover.
Finance	22	0	22	Forecast overspend relating to employee costs.
ICT and Communications	12	(22)	(10)	Forecast overspend across supplies & services and agency costs. More income from roundabout sponsorship and extra income from NEPP due to increased comms support.
People & Performance	6	(1)	5	Cost related to transferring to new occupational health provider.
Governance	14	1	15	Overspend on Corporate franking costs reflecting level of usage
Executive Management Team				
EMT	21	0	21	Overspend on employee costs forecast due to agency costs to cover maternity leave.
Community Services				
Cultural Services	15	(10)	5	£15k overspend forecast which is offset by £16k more directly related income within the Visitor Income Centre. £6k less income forecast from advertising and sales.
Community Zones	70	57	127	Forecasting a cost pressure of £108k due to sunken boat recovery works. There is a £43k forecast underspend in Mersea Island which will be the subject of a carry forward request at year end for widening works on the Mersea pontoon.

Service Area	Variance			Comment
	Spend £'000	Income £'000	Net £'000	
				There is a forecast underspend of £19k on fuel which is offset by an overspend of £8k on materials and £17k relating to tree maintenance. There are savings of £12k on security contractor costs in the Castle park, which is offset by a salary overspend as the work is now being undertaken in-house. Less Market Income of £55k is forecast, partially offset by £12k less expenditure in the same area.
Community Development	(15)	2	(13)	There is an underspend of £20k on grants, which will be the subject of a carry forward at year-end for the Beat the Streets project. At Highwoods Country Park, there is a £7k forecast overspend on material for sales, £10k more income in the visitor service centre, and £7k less income generated by school visits and parking.
Colchester and Ipswich Museums	209	(19)	190	There has been an agreed use of reserves by the Joint Museums Committee of £131k. In addition to that, JMC reserves will also be used to fund additional costs of £32k for storage, £13k for the commercial review of the service, and £4k for the NPO status application.
Commercial Services				
Head of Commercial Services	(16)	0	(16)	Forecast saving on vacant Head of Service post.
Place Strategy	(5)	(57)	(62)	Small variances across the service including employees and a £50k forecast underspend on LDF work which will be the subject of a carry forward request at year end. A £23k surplus of Pre-Planning Application income has been forecast by year end.

Service Area	Variance			Comment
	Spend £'000	Income £'000	Net £'000	
				Extra £34k Travel Plan income has been forecast but will be offset by extra expenditure.
Economic Growth	227	164	391	<p>Cost pressures have been forecast in the following areas:-</p> <p>Employees pressure of c£50k incl. some temporary agency cover; North Colchester cesspool issues £26k; St James / Roman House security and pest control issues £34k. East Colchester legal fees £40k; IT costs £12k – funding from the Revolving Investment Fund will be moved to fund some of these costs at year-end.</p> <p>Income shortfalls forecast on North Colchester Leisure site £100k; Charter Court £90k and Digital Income £20k.</p>
Corporate Asset Management	46	0	46	Town Hall Building works £17k and Rowan House service charge £30k.
Commercial - Trading	(235)	357	122	<p>Events team forecasting a net shortfall of £140k against budget for their first year which is a mixture of underspends and lower income levels than budget.</p> <p>Monitoring & Response services forecasting a shortfall in income £155k (Helpline) although this will be partially offset by £110k underspend on employees, it now looks unlikely that a further £55k anticipated income from CCG ambulance scheme will be agreed before year end.</p> <p>Building Control forecasting a £50k saving on employee costs.</p>
Commercial - Housing	298	0	298	£300k overspend forecast on B&B/Homelessness, reflecting the increase in homelessness cases aswell as a shortfall between the cost of temporary accommodation and the

Service Area	Variance			Comment
	Spend £'000	Income £'000	Net £'000	
				contribution from housing benefit.
Customer Services				
Customer Operations	(57)	0	(57)	Forecast short term underspends on employee costs due to the implementation of a new structure. This underspend is offset by forecast overspends on print and postage costs. There has been a £50K budget reduction in this area due to efficiency savings that were expected to be made over the course of this year. This is reliant on new technology which is currently being evaluated and not likely to be in place until April 2017.
Customer Demands & Research	0	(17)	(17)	Extra income from consultancy work forecast.
Customer Solutions	(65)	0	(65)	Forecast short term underspends on employee costs due to the implementation of a new structure. This is partially offset by forecast overspends on IT costs and training.
Local Taxation & NNDR	21	(100)	(79)	Forecast overspends relate to search fees and employee costs. £100k more income from Court Fees Recovered is estimated for the year.
Operational Services				
Sport and Leisure	(72)	162	90	Savings within Supplies and Services costs are offset by a shortfall of income from Lifestyle Memberships despite the removal of induction Fees, which has resulted in further income shortfalls in the Fitness Centre.
Recycling and Fleet	(162)	137	(25)	Savings on staff vacancies have funded the in-year implementation costs of the waste strategy. Less income from Glass Sales due to falling prices is forecast, whilst underspends on Food Waste expenditure will be

Service Area	Variance			Comment
	Spend £'000	Income £'000	Net £'000	
				offset by less use of the Food Waste Grant.
Car Parking	(217)	(60)	(277)	The majority of the underspend relates to Butt Road car park rent, which has now been confirmed is at a peppercorn rate, a one-off in in-year reduction on Middleborough car park service charge and NNDR costs for car parks either closed for repairs or being developed. Parking income is forecast to be £60k above budget which includes the expected shortfall in Season Ticket income due to lower take-up.
Parking Partnership	(85)	(120)	(205)	On-street will make a surplus that will be transferred into the reserve at year-end to fund future year's Traffic Regulation Order works.
Professional Services				
Head of Professional Services	22	0	22	Overspend forecast due to vacancy factor savings for whole service not achieved at Period 9, due to lower staff turnover.
Licensing & Food Safety	(23)	0	(23)	Underspend across employee costs.
Environmental Health Services	7	7	14	Forecasting an overspend across employee costs. There is an underspend on works in default costs offset by less related income. Less income for environmental annual subsistence charges.
Electoral Services	1	0	1	Small overspend forecast.
Professional Support Units	7	0	7	Overspend relating to change of payroll system, partially offset by an underspend across employee costs.
Land Charges	9	0	9	Overspend forecast mainly relating to the cost of a new apprentice.

December 2016 Account Description	Current Period - December 2016			Forecast Year-End Position		
	Profiled Budget to Period 9 £'000	Actual to Period 9 £'000	Variance (under) / over £'000	Annual Budget £'000	Projected Outturn £'000	Variance (under) / over £'000
HRA - Direct & Non-Direct						
EXPENDITURE						
Employees	81	75	(6)	108	108	-
Premises Related	5,107	4,748	(359)	6,721	6,721	-
Transport Related	-	1	1	-	-	-
Supplies & Services	563	428	(135)	972	972	-
Third Party Payments	2,862	2,839	(23)	3,435	3,435	-
Transfer Payments	118	92	(26)	166	166	-
Support Services	2,687	2,687	-	3,808	3,808	-
Capital Financing Costs	51	51	-	15,273	15,502	229
TOTAL EXPENDITURE	11,469	10,921	(548)	30,483	30,712	229
INCOME						
Other Grants & Reimbursements	(107)	(107)	-	(145)	(145)	-
Customer & Client Receipts	(22,737)	(23,032)	(295)	(29,968)	(30,197)	(229)
Income-Interest	(1)	(1)	-	(32)	(32)	-
Inter Account Transfers	-	-	-	(160)	(160)	-
TOTAL INCOME	(22,845)	(23,140)	(295)	(30,305)	(30,534)	(229)
TOTAL NET - HRA	(11,376)	(12,219)	(843)	178	178	-

7 March 2017

Report of	Assistant Chief Executive	Author	Graham Coleman ☎ 282741
Title	Capital Expenditure Monitor 2016/17		
Wards affected	Not applicable		

The Panel is invited to review the progress against all capital schemes during the first nine months of 2016/17

1 Action required

- 1.1 To review the level of capital spending during the first nine months of 2016/17, and forecasts for future years.

2 Reason for scrutiny

- 2.1 Monitoring capital spending is important to ensure that spending on projects is within agreed scheme budgets, and the overall programme is delivered within budget.
- 2.2 This report also gives the Committee the opportunity to hold Service Managers and Portfolio Holders accountable for their budgets.

3 Background information

- 3.1 This report sets out details of spending in the first nine months of the financial year 2016/17 (April to December) and revised forecasts for future years, including new capital funding and changes to the capital programme. The report includes capital expenditure in respect of the Housing Investment Programme, including expenditure on the Council's housing stock. It also includes the capital resources that form part of the Revolving Investment Fund (RIF).
- 3.2 Accrued capital spending for the first nine months of the year totalled £13.7 million. This represents 56% of the projected spend for 2016/17. **Appendix A** sets out details of spending on all schemes, along with expenditure forecasts provided by budget managers to provide an indication of progress against their expectations for schemes in monetary terms.
- 3.3 It should be noted that the Capital Programme mainly consists of schemes where spending is planned across more than one year. Any apparent variances from the forecast position for the year are unlikely to indicate any over or under spending against projects as a whole, but tend to relate to timing differences between anticipated payments and actual payments to contractors. Any significant divergences from planned activity would be brought to the Committee's attention in the following paragraphs.
- 3.4 The table below provides a summary of the capital programme by service area:

	Total Prog.	2016/17 Spend Qtr 3	2016/17 Forecast	Future Years Forecast	(Surplus) / Shortfall
Service / Scheme	£'000	£'000	£'000	£'000	£'000
Operational Services	3,939	522	1,175	2,764	0
Professional Services	2,166	548	980	1,186	0
Commercial Services (excl. RIF)	502	45	305	197	0
Community Services	3,213	370	1,208	2,005	0
Revolving Investment Fund (RIF)	33,240	5,697	8,656	24,684	100
Completed Schemes	348	265	348	0	0
Capitalised Maintenance Schemes	236	127	196	40	0
Housing Revenue Account	12,960	6,127	11,675	1,285	0
Total Capital Programme	56,604	13,701	24,543	32,161	100

- 3.5 Changes to the Capital Programme are regularly made to reflect changes in funding and the addition of new schemes. The Capital Programme has increased by £18.9m since the previous report, and now stands at £56.6 million. This increase is due to the introduction of funding for the Northern Gateway Sports Hub project, the Waste Collection Strategy, the use of 1-4-1 capital receipts in the Housing Revenue Account and the release of Section 106 monies for five new schemes. The changes to the Capital Programme over the last quarter are detailed in **Appendix B**.
- 3.6 The most significant areas of planned expenditure for the year are detailed in **Appendix C**, along with the actual expenditure and updated commentary from budget holders.
- 3.7 **Appendix A** includes a RAG (Red, Amber, Green) status of overall project performance against capital schemes. Although there are no 'Red' schemes, a total of eight schemes were classed as 'Amber' by the budget managers. The current position against these schemes is detailed in **Appendix D** to this report.
- 3.8 The Creative Business Centre project is predicted to be overspent by £100k. This will be referred to the Revolving Investment Fund Committee for consideration.

4 Strategic Plan references

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

5 Financial implications

- 5.1 As set out above.

6 Risk management implications

- 6.1 Risk management issues are considered as part of all capital projects.

7 Other standard references

- 7.1 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.

Background papers - None

Service / Scheme	Projected Expenditure						(Surplus) / Shortfall £'000	RAG Status Q3 Q2	
	Total Programme £'000	Accrued spend to Q3 £'000	2016/17 £'000	2017/18 £'000	2018/19 £'000	2019/20 £'000			
SUMMARY									
Operational Services	3,939.3	522.2	1,175.3	2,764.0	0.0	0.0	0.0		
Professional Services	2,166.0	548.0	980.0	912.5	273.5	0.0	0.0		
Commercial Services (excluding RIF)	502.0	45.1	305.1	196.9	0.0	0.0	0.0		
Community Services	3,212.6	369.5	1,207.5	2,005.1	0.0	0.0	0.0		
Revolving Investment Fund (RIF)	33,239.7	5,696.5	8,656.3	6,128.1	16,923.3	1,632.0	100.0		
Completed Schemes	348.2	265.4	348.2	0.0	0.0	0.0	0.0		
Capitalised Maintenance Schemes	236.4	126.5	196.4	40.0	0.0	0.0	0.0		
Total (General Fund)	43,644.2	7,573.2	12,868.8	12,046.6	17,196.8	1,632.0	100.0		
Housing Revenue Account	12,960.4	6,127.3	11,674.9	1,285.5	0.0	0.0	0.0		
Total Capital Programme	56,604.6	13,700.5	24,543.7	13,332.1	17,196.8	1,632.0	100.0		
OPERATIONAL SERVICES									
Shrub End Depot - new baler and shed	840.5	0.0	0.0	840.5	0.0	0.0	0.0	A	A
Waste Collection Strategy	856.5	0.0	0.0	856.5	0.0	0.0	0.0	G	-
Priory Street Car Park	534.4	219.7	534.4	0.0	0.0	0.0	0.0	G	G
LWC - Health & Fitness Extension	994.0	8.8	27.0	967.0	0.0	0.0	0.0	A	A
LWC - Aqua Springs Refurbishment	250.0	43.5	150.0	100.0	0.0	0.0	0.0	G	G
LWC - Leisure Pool Refurbishment	270.0	141.5	270.0	0.0	0.0	0.0	0.0	G	G
LWC - Coffee Shop Extension	80.0	37.3	80.0	0.0	0.0	0.0	0.0	G	G
St Johns Car Park	90.0	71.4	90.0	0.0	0.0	0.0	0.0	G	G
Shrub End Pitch Replacement	23.9	0.0	23.9	0.0	0.0	0.0	0.0	G	G
TOTAL - Operational Services	3,939.3	522.2	1,175.3	2,764.0	0.0	0.0	0.0		
PROFESSIONAL SERVICES									
Mandatory Disabled Facilities Grants	1,973.5	519.9	900.0	800.0	273.5	0.0	0.0	G	G
Private Sector Renewals - Loans and Grants	192.5	28.1	80.0	112.5	0.0	0.0	0.0	G	G
TOTAL - Professional Services	2,166.0	548.0	980.0	912.5	273.5	0.0	0.0		
COMMERCIAL SERVICES									
Assistance to Registered Housing Providers	91.9	0.0	0.0	91.9	0.0	0.0	0.0	G	G
CCTV Monitoring	115.0	5.6	100.0	15.0	0.0	0.0	0.0	G	G
Local Authority Carbon Management (LACM)	190.0	8.1	100.0	90.0	0.0	0.0	0.0	G	G
Cemetery Extension	43.7	8.0	43.7	0.0	0.0	0.0	0.0	G	G
Cemetery Exterior Lighting	50.0	16.8	50.0	0.0	0.0	0.0	0.0	G	G
Replacement of Cremators	11.4	6.6	11.4	0.0	0.0	0.0	0.0	G	G
TOTAL - Commercial Services	502.0	45.1	305.1	196.9	0.0	0.0	0.0		
COMMUNITY SERVICES									
Improving Life Opportunities	38.3	0.0	0.0	38.3	0.0	0.0	0.0	A	A
Oak Tree Community Centre Roof	50.0	0.0	0.0	50.0	0.0	0.0	0.0	G	G
Lion Walk Activity Centre	40.0	0.0	0.0	40.0	0.0	0.0	0.0	G	G
Garrison Gym Rebuild	88.2	46.6	88.2	0.0	0.0	0.0	0.0	A	A
Mersea Pontoon	10.6	7.8	10.6	0.0	0.0	0.0	0.0	G	G
Castle Park Sensory Garden S106	60.6	2.1	60.6	0.0	0.0	0.0	0.0	G	G
Cook's Shipyard Playsite Wivenhoe S106	11.6	0.6	11.6	0.0	0.0	0.0	0.0	G	G
Old Heath Recreation Ground Improvements	132.1	95.2	132.1	0.0	0.0	0.0	0.0	G	G
Wivenhoe Adult Gym	21.0	15.0	21.0	0.0	0.0	0.0	0.0	G	G
Market Development	2.7	0.0	2.7	0.0	0.0	0.0	0.0	G	G
Mile End Rec Playground S106	40.0	0.0	40.0	0.0	0.0	0.0	0.0	G	-
Tiptree P C - Store & WCs S106	83.0	0.0	0.0	83.0	0.0	0.0	0.0	G	-
Tiptree Memorial Garden S106	42.0	0.0	0.0	42.0	0.0	0.0	0.0	G	-
Castle Park Cricket Pavilion Extension S106	125.0	0.0	0.0	125.0	0.0	0.0	0.0	G	-
Walls - new merged scheme	521.8	185.7	390.0	131.8	0.0	0.0	0.0	G	G
Mercury Theatre Redevelopment	1,430.7	15.0	430.7	1,000.0	0.0	0.0	0.0	G	G
Relocation of Museum Resource Centre	515.0	1.5	20.0	495.0	0.0	0.0	0.0	G	G
TOTAL - Community Services	3,212.6	369.5	1,207.5	2,005.1	0.0	0.0	0.0		
REVOLVING INVESTMENT FUND									
Northern Gateway North	445.2	197.9	445.2	0.0	0.0	0.0	0.0	G	G
CNGN - Mile End Cricket	200.0	0.0	0.0	200.0	0.0	0.0	0.0	G	-
CNGN - Sports Hub	17,078.0	0.0	0.0	3,559.0	11,887.0	1,632.0	0.0	A	-
Northern Gateway South	493.2	78.0	118.2	375.0	0.0	0.0	0.0	A	G
Town Centre	6,547.6	1,326.2	1,466.6	240.0	4,841.0	0.0	0.0	G	G
Creative Business Centre	1,286.5	1,326.1	1,386.5	0.0	0.0	0.0	100.0	A	A
Jacks - St Nicholas St	1,015.6	28.7	100.0	915.6	0.0	0.0	0.0	G	G
Sheepen Road	3,492.3	1,163.1	3,292.3	200.0	0.0	0.0	0.0	G	G
District Heating Project North	26.8	0.0	26.8	0.0	0.0	0.0	0.0	G	G
District Heating Project East	10.0	0.0	10.0	0.0	0.0	0.0	0.0	G	G
East Colchester Enabling Fund	285.0	4.0	50.0	235.0	0.0	0.0	0.0	G	G
Breakers Park	75.0	1.7	25.0	50.0	0.0	0.0	0.0	G	G
Surface Water Flooding - Distillery Lane/Haven Road	77.4	0.0	10.0	67.4	0.0	0.0	0.0	A	A
Site Disposal Costs	4.8	4.3	4.8	0.0	0.0	0.0	0.0	G	G
Moler Works Site	40.7	0.0	0.0	40.7	0.0	0.0	0.0	G	G
CMP Phase 3 - PV Systems	95.4	0.0	0.0	95.4	0.0	0.0	0.0	G	G
Business Broadband	362.8	208.4	362.8	0.0	0.0	0.0	0.0	G	G
Land Acquisition	1,703.4	1,358.1	1,358.1	150.0	195.3	0.0	0.0	G	G
TOTAL - RIF	33,239.7	5,696.5	8,656.3	6,128.1	16,923.3	1,632.0	100.0		

Service / Scheme	Total Programme £'000	Accrued spend to Q3 £'000	2016/17 £'000	Projected Expenditure			(Surplus) / Shortfall £'000	RAG Status	
				2017/18 £'000	2018/19 £'000	2019/20 £'000		Q3	Q2
HOUSING REVENUE ACCOUNT									
Housing Improvement Programme	8,752.9	3,881.7	8,052.9	700.0	0.0	0.0	0.0	G	G
Adaptations to Housing Stock	604.0	352.2	604.0	0.0	0.0	0.0	0.0	G	G
Sheltered Accommodation Review	2,818.0	1,893.4	2,818.0	0.0	0.0	0.0	0.0	G	G
Housing ICT Development	285.5	0.0	200.0	85.5	0.0	0.0	0.0	G	G
Use of 1-4-1 Right to Buy Receipts	500.0	0.0	0.0	500.0	0.0	0.0	0.0	G	-
TOTAL - Housing Revenue Account	12,960.4	6,127.3	11,674.9	1,285.5	0.0	0.0	0.0		
COMPLETED SCHEMES (OR WHERE RETENTION ONLY OUTSTANDING)									
Leisure World Skatepark	112.8	111.8	112.8	0.0	0.0	0.0	0.0		
Wivenhoe Pontoon	25.0	25.0	25.0	0.0	0.0	0.0	0.0		
Jet Washer	102.0	102.0	102.0	0.0	0.0	0.0	0.0		
Abberton Community Fund S106	10.0	10.0	10.0	0.0	0.0	0.0	0.0		
Town Station Square	42.8	0.0	42.8	0.0	0.0	0.0	0.0		
Castle Museum - Castle Bridge	1.2	1.2	1.2	0.0	0.0	0.0	0.0		
Moot Hall Organ	39.0	0.0	39.0	0.0	0.0	0.0	0.0		
ICT Strategy	15.4	15.4	15.4	0.0	0.0	0.0	(0.0)		
TOTAL - Completed Schemes	348.2	265.4	348.2	0.0	0.0	0.0	(0.0)		
CAPITALISED MAINTENANCE									
Crematorium - Gutters & Fascias	13.4	0.0	13.4	0.0	0.0	0.0	0.0	G	G
Colchester Leisure World - Dryside Changing Rooms	48.0	0.0	48.0	0.0	0.0	0.0	0.0	G	G
Town Hall - Bell Tower Repairs	135.0	126.5	135.0	0.0	0.0	0.0	0.0	G	G
Colchester Business Centre	40.0	0.0	0.0	40.0	0.0	0.0	0.0	G	G
TOTAL - CAPITALISED MAINTENANCE	236.4	126.5	196.4	40.0	0.0	0.0	0.0		

Changes to the Capital Programme 2016/17

Qtr 3 £'000	Detail
Funded from Capital Receipts	
13,500	Colchester Northern Gateway – Sports Hub
856	Waste Collection Strategy
500	Use of 1-4-1 Capital Receipts (HRA) – from reserve
14,856	Subtotal Capital Receipt Funding
Section 106	
83	Tiptree PC Store & WCs
40	Mile End Recreation Ground Playground
25	Business Broadband – North Colchester
42	Tiptree Memorial Garden
125	Castle Park Cricket Pavilion Extension
315	Subtotal Section 106
External Funding	
3,778	Colchester Northern Gateway – Sports Hub & Mile End Cricket
3,778	Subtotal External Funding
18,949	Total Change

Capital Programme – Significant areas of spend 2016/17

Scheme	2016/17 Forecast £'000	Spend to Qtr 3 £'000	Commentary
Operational Services			
Priory Street Car Park	534	220	The work has been completed and the car park is open. Final payments are being arranged once a couple of snagging issues are resolved and the project will be within the budget allowed.
Professional Services			
Disabled Facilities Grants	900	520	This budget funds the mandatory support for adaptations for disabled people to enable them to remain living independently in their home. Colchester Borough Homes currently assist in this process with access to their contractors. Expenditure is determined by customer demand. The Better Care Fund allocation this year is double that of previous years. Discussions are ongoing with health and social care partners to provide an enhanced DFG service and to use the DFG budget more innovatively. This work is likely to focus around providing adaptations for acute care patients to enable rapid hospital discharge and works to contribute toward reducing avoidable hospital admissions. DFGs approved/commitments yet to be paid stands at £325k. Cases in progress to approval likely to be completed and paid this year value approx. a further £300k. In addition, cases at very early stages which may be committed and will c/f to 2017/18 total approx. £400k.
Revolving Investment Fund			
Sheepen Road	3,292	1,163	Work is well under way on site to deliver phase 1 of the Sheepen Road office development. The project is currently within budget and will be handed to the tenant to complete their fit out at the end of March.
Creative Business Centre	1,387	1,326	Build programme now complete and tenant in situ. However, expenditure against this project is projected to be higher than the current budget, and the over-spend will be sought from elsewhere in the RIF budget.
Land Acquisition	1,358	1,358	RIF Committee agreed to purchase circa 30 acres at North Colchester as part of a strategic land purchase. The purchase was completed in early October.
Town Centre	1,467	1,326	Enabling monies to support regeneration projects in the Town Centre. Already acquired a group of properties in Osborne Street and Arthur Street and continue to purchase further properties as part of the Council's long term plans to deliver a scheme in Vineyard Gate.

Capital Programme – Significant areas of spend 2016/17

Scheme	2016/17 Forecast £'000	Spend to Qtr 3 £'000	Commentary
Housing Revenue Account			
Housing Improvement Programme	8,053	3,882	Scheme to maintain council housing stock at the Decent Homes standard together with other works to improve and maintain council homes. The programme is devised using information from the Council's 30 year asset management strategy. The profile of expenditure throughout the year is dependent on when works are completed to properties by contractors, and subsequently submitted to the Council for reimbursement. £700k of this year's budget has been earmarked for the expected Government levy from the sale of higher value assets and therefore will not be spent this financial year, as agreed with the Portfolio Holder. The payment of this levy has been delayed so this resource will be carried forward. The third quarter's expenditure is in line with the revised programme.
Sheltered Accommodation Review	2,818	1,893	Improvements made to Council's sheltered housing accommodation. Refurbishment works started on Enoch House in August 2015; phases 1, 2, 3 & 4 are complete and residents have moved into their new homes with high levels of satisfaction. Works have started in phase 4, the project is running to programme and is expected to be completed on time and in budget.
Adaptations to Housing Stock	604	352	Improvements made to Council housing stock to meet specific tenants needs. The programme is on target and is expected to be fully expended in the course of the year.

Capital Programme – ‘Amber’ schemes Qtr 3 2016/17

Scheme	Spend to Qtr 3 £'000	Commentary
Operational Services		
Shrub End Depot	0	Discussions with ECC are ongoing with regard to the potential redevelopment of the Recycling Centre for Household waste at Shrub End. Negotiations on land are ongoing between Estates and ECC. The outcomes of this will feed into the options for the Council's Depot development alongside other potential sites.
Leisure World – Health & fitness extension	9	Extension of gym & redevelopment of offices to provide additional studio space. During the detail design stage a number of issues were raised causing a delay of 6 months. Following successful tender processes for the equipment and the building refurbishment, start on site planned for early March 2017 with project completion by September 2017. Project is on budget.
Community Services		
Improving Life Opportunities	0	Some monies are not currently committed. Opportunities include a second fully accessible disabled toilet scheme and feasibility and location is being reviewed. £15k has been allocated to the repair of the Oak Tree Centre roof along with Section 106 funding - this scheme is shown on a separate budget line in Appendix A.
Garrison Gymnasium Rebuild	47	Confirmation of the insurance settlement remains unresolved. Following the open day and informal expressions of interest process, Portfolio Holders have agreed to let the building out to a tenant for two years and are starting the process of choosing a long term tenant for the building. Portfolio Holders have confirmed the commencement of the internal refurbishment to provide basic community facilities layout and to get the building in to community use as soon as possible. CBH is being commissioned to prepare specifications and procurement documents. Completion of building works anticipated end 2017.
Revolving Investment Fund		
Northern Gateway – Sports Hub	0	Time pressures are increasing due to additional pre-application studies required by Planning Services, together with the logistics of creating grass for rugby pitches.
Northern Gateway South	78	The Turnstone full application is now expected to come to committee in Spring 2017 due to further studies being required as part of the application process.
Surface Water Flooding - Distillery Lane/Haven Road	0	Joint project with Anglian Water and ECC to try to resolve the issue of surface water flooding at Haven Road. Anglian Water have fitted a valve in the quay in an effort to prevent tidal water from the river flooding Haven Road. CBC has committed to undertaking dredging at a cost of £4,125 and contribute to a feasibility study at £5,000. Depending on the results on the feasibility study CBC has approx. £80,000 of s.106 funding for a capital scheme. AW currently working on the feasibility study. CBC continue to monitor a project to be delivered by others.
Creative Business Centre	1,326	See Appendix C

Capital Programme – ‘Amber’ schemes Qtr 3 2016/17
Status Key

Status	Definition	Action
Red	There are significant issues with one or more aspects of the scheme (time, cost, scope), which require corrective action to meet the project objectives. The issue cannot be mitigated by the project manager or project team.	Escalate to project sponsor immediately. Highlight to PMB and the Scrutiny Panel.
Amber	One or more aspects of the project are at risk and are being flagged. Project performance is expected to be addressed by the project manager or project team.	Briefing to project sponsor. Report as part of overall summary.
Green	All aspects of the project are performing to plan.	No action required. Report as part of overall summary.

7 March 2017

Report of	Assistant Chief Executive	Author	Andrew Weavers
Title	Review of Meetings and Ways of Working Progress update		2213
Wards affected	Not applicable		

This report provides a progress update for the review of meetings and ways of working.

1. Decision(s) Required

- 1.1 To note the progress made to date on the review of meetings and ways of working.
- 1.2 To confirm which of the initiatives outlined in **Appendix A** should be prioritised so that further investigations can be undertaken and a report, containing recommendations to Council, can be submitted to the June 2017 Committee meeting.
- 1.3 To agree, in principle, that a full cost analysis of the options for streaming Committee meetings be undertaken, to be reported back to the Committee in June 2017.
- 1.4 To agree that the Governance and Audit Committee move from paper to electronic agendas from the commencement of the new Municipal year and that the Chairmen of the Scrutiny Panel and the Revolving Investment Fund Committee be invited to consider whether they wish to do the same at an appropriate time, and other meetings do so on a phased approach, to be agreed.

2. Reasons for Decision(s)

- 2.1 The review of meetings and ways of working has provided an opportunity to look at how Colchester Borough Council conducts its committee meetings and what measures might increase engagement by members of the public. Following input from both Councillors and members of the public a number of key ideas have been identified. A decision is now required as to which of the ideas should be pursued and investigated in more detail before a report is brought back to the first Governance and Audit Committee of the next municipal year.
- 2.2 Part of the review of meetings and ways of working included undertaking research on the cost implications of streaming meetings online. The report includes indicative costs for each of the options; further research and a site visit will be required to confirm the actual cost. In addition to this, it has come to light that the wireless microphones used in the Grand Jury Room, Moot Hall and G3, Rowan House are now no longer serviceable and need to be replaced. Due to the integrated nature of microphones and streaming equipment, it would be advantageous to have an indication as to whether streaming should be looked into further, in order to inform decisions on the procurement of a new microphone system.
- 2.3 The Council is currently implementing a Digital Challenge initiative, which aims to change the way Colchester Borough Council works by making the next technological leap to

maximise use of existing and new technology as well as reducing use of paper. As part of the Digital Challenge there is the opportunity to introduce, from the beginning of the next municipal year, a pilot where Councillors would access meeting agendas digitally through portable devices. This is intended to save money by reducing printing. To ensure that Councillors are supported through this change it is recommended that the move to digital agendas be trialled by the Governance and Audit Committee, and that the Chairmen of the Scrutiny Panel and the Revolving Investment Fund Committee be invited to consider doing the same.

3. Supporting Information

3.1 The Governance and Audit Committee requested that a review of meetings and ways of working be undertaken at its meeting on 26 July 2016 which was subsequently confirmed by Full Council. The original objectives of the review were;

- Improve public participation at meetings
- Make public meeting more accessible and engaging for residents
- Make the way we work more flexible to improve the opportunity for an improved diversity of Councillors
- Offer Councillors a more efficient way of working through better use of new technology.

3.2 Following approval of the objectives and the scope of the review, officers drafted a report to the September Governance and Audit Committee meeting highlighting a number of ideas that could be pursued. The report also outlined progress on current projects that could benefit Committee meetings including improvements to the Town Hall Wi-Fi and the implementation of Office365 for both officers and Councillors.

3.3 An informal meeting was held on 24 October 2016, inviting all Councillors to contribute ideas on how committee meetings at Colchester Borough Council could be improved. A total of 17 Councillors attended the meeting, and the below are the key themes that emerged from this session -

- ICT for Councillors
 - Appropriate equipment
 - Move to Digital Agendas
 - Acknowledgement that some members may not be able to take the step to digital agendas
- Assess how the Council can stream its meetings online
- Shorter and more accessible agendas
- Reports to include an executive summary
- Possibility of re-introducing Members Tea's.
- Members Room improvements
- Start times of meetings, including the possibility of different times for different meetings.
- Review of Have Your Say! in the Constitution
 - Assess the possibility of accepting written submission of questions.
 - Allowing for those attending to ask a supplementary question
 - Focus on measures that would make having a say at committee meetings more friendly and welcoming for members of the public.
- Assess training opportunities for Councillors, in particular Chairman training.

3.4 A public survey was launched on the Council's website on 13 January 2017 and was communicated to members of the public using the following means;

- A press release, details of which were published in the Colchester Gazette and Essex County Standard
- A range of social media posts
- Colchester Borough Council consultation webpage,
- Committee Management Information System (CMIS) webpages,
- Democratic Services Committee Information Newsletter
- Distribution to all Parish and Town Clerks.

3.6 The survey, which closed on 17 February 2017, received a total of 81 responses. Responses provided are included in **Appendix B**. In addition, some members of the public with wide experience of our meetings processes either commented online [here](#) or provided detailed written comments which are attached at **Appendix C**.

3.7 Three public sessions were also arranged to provide an opportunity for members of the public to speak to Councillors and Democratic Services officers about the survey and any questions they have about the democratic process. One of these sessions took place at Colchester Town Hall, and another two took place on the same day in Tiptree, the first of which was outside Tesco and the second was in the Community Centre.

4. Standard References

4.1 At this time there are no particular references to the Strategic Plan; publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety or risk management implications.

Appendix A

REVIEW OF MEETINGS AND WAYS OF WORKING IDEAS SUMMARY

1. Councillor ICT

- 1.1 Previous discussions by Councillors had suggested that the same equipment be provided to all Councillors. The results of a survey of Councillors ICT equipment highlighted that a number of Councillors already have a device, or devices that are compatible with Office365 and are able to access digital copies of agendas. An indicative cost of supplying iPads to all Councillors would be approximately £20,400.
- 1.2 The Council's current policy is that if Councillors do not have access to a device on which they can conduct Council business, equipment will be provided to that Councillor following discussions with the Council's ICT team. Given the number of Councillors who already have access to compatible devices the number of requests for devices is likely to be low.
- 1.3 The Council is currently upgrading Officers and Councillors to Microsoft Office365. This system allows access to e-mails and files from any internet enabled device in any location. This will provide greater flexibility and improved reliability for Councillors. In addition, the upgrade to the Town Hall Wi-Fi network has been completed successfully although further consideration may need to be given to access to electrical sockets in the meeting rooms.

2 Digital Agendas

- 2.1 The Council uses CMIS committee management software to create, publish and host committee related information; this includes Councillors information and meeting agendas. It is possible for anyone with internet access to access digital copies of agendas from the website when they are published.
- 2.2 Councillors, Officers and members of the public are able to download a tablet application called MyCMIS to automatically receive and download agendas as soon as they are published. The application, once users are logged in, has a range of functionality including annotation of agendas and access to councillor contact information. The application is now available on iPad, Android tablets and Windows 8-10 devices.
- 2.3 The Democratic Services team members together with a number of Councillors have been using the application on a trial basis during Committee meetings, with regular feedback being provided to the developer.
- 2.4 Given the significant change in providing agendas digitally to Councillors rather than providing printed copies, the opportunity could be taken to invite three Committees to trial the use of digital agendas. It is proposed that the three Committees that will move to using digital agendas from the commencement of the next municipal year are the Governance and Audit Committee, the Scrutiny Panel and the Revolving Investment Fund Committee.
- 2.5 The intention would be to continue to provide a small number of printed copies of the agenda for members of the public who wish to attend the meetings.

3 Streaming of Committee meetings

- 3.1 All public Council and Committee meetings are currently recorded and uploaded to the website for people to listen to. Whilst the aim is to upload recordings the day after the meeting, as the procedure is not straightforward, this is sometimes delayed.

3.2 In the light of both public and Council support, research was undertaken to provide a summary of the options for live streaming meetings for both video and audio only. There are four options available for streaming committee meetings online;

- Public-i – A bespoke solution and the current market leader in providing live video streaming for Council committee meetings.
- Youtube – Provides the ability to stream meetings online for free, requiring the purchase of camera equipment and software.
- Audiominutes – A bespoke audio only committee meeting streaming solution.
- MixLR – Audio streaming website using mobile applications.

3.3 Of the options listed above, further cost analysis has been provided for both Public-i and Audiominutes below. They provide an integrated and specific solution for broadcasting committee meetings live. They are also less resource intensive than the other options suggested and include the provision of support to ensure that the streaming is functioning correctly. In addition, the Council's Communications Team advised against using Youtube as a streaming solution, as the volume of meetings could dilute the current Council content on Youtube.

3.4 Streaming summary table;

	Public-i	Audiominutes
Supported	✓	✓
Video	✓	
Camera tracking	✓	
Audio	✓	✓
Recording facility	✓	✓
Integrates with CMIS	✓	✓
Contract Cost	£35,000 (3 year contract)	£11,700 (3 year period)
Equipment Cost	£5,000 (3 year lease)	N/A

3.5 Public-i

3.5.1 Public-i is the market leader for live web streaming Council committee meetings and already work with a number of councils in Essex, including;

- [Epping Forest District Council](#)
- [Braintree District Council](#)
- [Brentwood Borough Council](#)
- [Southend on Sea Borough Council](#)
- [Castlepoint District Council](#)

3.5.2 Public-i provides camera tracking technology that works with the microphones to identify and focus on the current speaker, together with streaming any presentation slides that are being used during the meeting. In addition to this, Public-i will provide a website which works with CMIS and also has the facility for webchats for each live streamed meeting.

3.5.3 The indicative cost for a contract with Public-i would be £35,000 over three years, and a one off £5,000 installation fee. This would include the lease of one mobile

camera unit (for use in different rooms), or one set of fixed cameras (for one room only), 90 hours of web streaming per annum and support. The total duration of all Council Committee meetings per year exceeds 90 hours. Therefore consideration on whether all meetings are streamed or whether an additional streaming solution is installed in another room will be required.

3.6 Audiominutes

3.6.1 Audiominutes is currently used by the following Councils in Essex;

- [Basildon Council](#)
- [Essex County Council](#)
- [Uttlesford District Council](#)

3.6.2 Audiominutes uses a microphone feed and android software to broadcast the audio of meetings online. This system would be integrated into CMIS, with the live feed and recordings of meetings accessible through the relevant meetings page on the website.

3.6.3 The cost is £325 per month for unlimited meetings. This price is for the fully supported version, which includes the ability to stream to 1,000 listeners and a 500-hour archive of meetings.

3.7 As the wireless microphones used in the Grand Jury Room, Moot Hall and G3 in Rowan House are no longer functioning correctly this is an opportunity to review the options for streaming Committee meetings alongside the upgrading of the microphones. This would ensure full compatibility if a streaming option were chosen. It may also be an opportunity to review the provision of audio visual equipment in meetings rooms to ensure that, with the ever increasing use of digital technology, meeting rooms are fit for purpose.

3.8 The Committee will need to consider which of the options presented should be further investigated, with a full cost analysis produced.

4 Shorter Meetings Agendas/Executive Summary

4.1 A review of Committee report templates was suggested as a way to reduce the size of meeting documents as well as reducing the time spent reading for Councillors and improved understanding for and willingness to engage by members of the public. Improvements to report format / templates include:

- The use of an Executive Summary which requires the Committee author to start a report with a broad summary or overview of the subject matter, followed by an indication of the decision required to be taken;
- The use of bullet points for summaries;
- The avoidance of the use of jargon and acronyms in reports;
- More effort being given to the use of Plain English, wherever possible;
- The adoption of a brief description of the report content in the agenda running order beneath the report title.

4.2 There are numerous examples of the use of Executive Summaries in reports from other Local Authorities - Chelmsford, Braintree and Epping Forest to name a few. The format/make-up of agendas is not proscribed in legislation and Colchester's current report format has not been amended for some years. This suggested approach would therefore seem to be a very welcome change which would benefit both Councillors and members of the public, whilst also reflecting good practice adopted elsewhere and would have little

significant impact on resources. A reminder to all report authors to ensure a Plain English approach is adopted for all future report writing could be included within a review of the Committee report template.

- 4.3 In considering the introduction measures to reduce the amount of information in meeting documents, the Committee should bear in mind that the overuse of summaries could lead to allegations of important information being hidden or not readily accessible. In addition, certain technically related subjects may lend themselves less well to this approach, as such, there would need to be the ability for more complex subjects to be reported in greater depth, as necessary.
- 4.4 Further measures to reduce the time spent in meetings, to promote more efficient and better informed decision making, whilst encouraging greater public engagement included:
- A more proactive approach to the number of agenda items at meetings;
 - A more structured approach by Chairmen to the length of time spent debating Committee items;
 - The allocation of pre-determined time-slots to the agenda running order;
 - For meetings to generally last no more than two hours.
- 4.5 Whilst some Councillors may feel comfortable with a more structured approach to Chairmanship, in practice, this may result in Chairmen feeling a greater sense of responsibility for the success or otherwise of decision making. Meetings tend to be conducted in different ways, dependent on the membership, the subject matter being discussed and the venue. A requirement for Chairmen to regulate discussion time with the aim of confining meetings more strictly to a maximum duration of, say, two hours, may lead to allegations of stifling debate. There is also the potential for shorter meetings to have the knock-on effect of leading to a greater number of meetings due to an inability to accommodate work programme commitments. The suggestion may also prove to be incompatible with the aspirations of the public to enhance their use of Have Your Say! opportunities.
- 4.6 An opportunity could also be taken to undertake a review of the decision making information contained on the website which would have the benefit of making the Councillors and Meetings pages more readily understandable and easier to navigate to for members of the public. Such a review could include:
- Greater use of Frequently Asked Questions;
 - Use of the website for standard meetings information;
 - An update of the Have Your Say! information and procedures to raise its profile, make it more appealing and welcoming;
 - To provide more 'how to' information such as for downloading meetings calendars and subscribing to e-newsletters;
 - Use of photographs of meeting rooms.
- 4.7 This would also have the benefit of reducing the size of and replication in individual agendas with the information being available at all times. A rewording of the information about how meetings work would give an opportunity for the language used to be less complicated and for legislative jargon to be removed. It would be possible to programme in such a review in the period leading up to the new Municipal Year, with little significant impact on service delivery at this time. However, care would need to be taken to ensure those attending meetings were made aware of changes to agenda formats and the ability to access information from the website. Croydon Council is an example of a Local Authority

which publishes photographs of rooms on the website which may help to assist the public in visualising how meetings will be conducted.

5 Meeting Start Times

- 5.1 Concerns have been expressed that it is difficult for some Councillors and residents to make a 6pm start time for meetings, particularly those who commute to London. This was not a universal view and there was some support for retaining the 6pm start time. The results of the survey indicated that the most popular meeting time for residents from the options provided was 6pm, but there was also some support for later meeting times of 7pm and 7.30pm.
- 5.2 For information, the average length of evening meetings so far this municipal year is set out below:-
- Full Council: 2 hours, 40 minutes
 - Cabinet: 1 hour, 45 minutes
 - Planning Committee: 1 hour, 40 minutes
 - Local Plan Committee: 3 hours, 5 minutes
 - Scrutiny Panel: 2 hours, 30 minutes
 - Governance and Audit Committee: 1 hour, 30 minutes
 - Trading Board: 1 hour, 40 minutes
 - Revolving Investment Committee: 1 hour, 5 minutes
 - Licensing Committee: 45 minutes
 - Licensing Hackney Carriage Hearings (evenings only): 1 hour, 50 minutes
- 5.3 Moving all meeting start times to 7pm would address the concerns about the 6pm start time. However, the following factors may also need to be taken into consideration;
- The need to ensure that there is sufficient time to complete business. If the business is not completed, more meetings may be required, possibly at short notice. Whilst this could be addressed by shorter agendas or stricter management of the meeting and debate this may lead to concerns that issues are not being properly debated.
 - The impact on the quality of decision making if meetings routinely finish later.
 - Longer working hours for Councillors and officers. There would also be significant increased officer resource required from the Democratic Services Team and other officers who frequently attend meetings, for example the Executive Management Team, Heads of Service, Monitoring Officer, Section 151 Officer, plus some additional Hallkeeping costs.
 - This issue needs to be considered together with the review of the Have Your Say! arrangements. If Have Your Say! arrangements are amended to increase public involvement this needs to be taken into account when considering issues around the length/start time of meetings.
- 5.4 Currently all meetings have the same start time, but an alternative approach would be to adopt different start times, dependant on typical agenda and meeting lengths. For example those meetings which tend to last longest or where it is most crucial that the business is completed could start at 6pm. For example Full Council, Local Plan, Planning, Licensing Sub-Committee/Hackney Carriage hearings, Scrutiny Panel (approximately 40 meetings per year) could start at 6pm with all other meetings at 7pm. This would partly alleviate concerns over the 6pm start time, but the implications listed above would still apply to those meetings commencing at 7pm. There would still be a resource implication, but not to the same extent.

- 5.5 It is possible that different start time could cause some confusion with members of the public, but this could be managed through appropriate publicity. A number of other neighbouring authorities operate different start times for different meetings.
- 5.6 Council Procedure Rules state that meetings of Full Council should start at 6pm unless Cabinet agrees otherwise, so changes to start times of Full Council meetings would require a referral to Council for an amendment to the Constitution

6 Review of Have Your Say!

- 6.1 At the Councillor informal meeting, the following suggestions were made for consideration;
- Addition of supplementary question for the Have Your Say! speaker for a period of one minute, which would be taken from the existing three minutes.
 - Review of where Have Your Say! speaker is located to ensure a welcoming environment for public speaking.
 - To allow the submission of written questions.
- 6.2 As can be seen by the survey results members of the public were keen for the Have Your Say! arrangements to be improved.
- 6.3 For comparison, below is a table that outlines the speaking arrangements for authorities in Essex.

Council	Public questions/ statements	Process to register	Time per question/statement	Total allocated
Braintree District Council	1 Question	No later than 5.30 pm, 2 clear working days before the meeting	3 minutes	30 minutes
Colchester Borough Council	Questions or Statement ("Have your say!") Members are allowed to ask one question of the speaker but there will be no discussion.	Prior to the start of any Council meeting – must be in connection with issues on agenda or an issue which the committee would deal with.	3 minutes per speaker.	15 minutes (In practice time limit not usually enforced)
Brentwood Borough Council	Questions – max 2	No later than 10 am, 2 clear working days before the meeting	None indicated but after 15 minutes any unanswered questions will be answered in writing and placed within the minutes	15 minutes

Castlepoint Borough Council	Questions – max 2 per person	7 clear working days prior to meeting	None indicated	None indicated
Chelmsford City Council	1 Question or Statement	At Council meeting – may ask 1 question after providing name and address	2 minutes per person No supplemental	30 minutes for Full Council
Epping Forest District Council	Can submit up to two questions with the opportunity for a supplementary.	For Council, Cabinet and Overview and Scrutiny question must be pre-submitted four days in advance.	None indicated	None indicated
Essex County Council	One question for Full Council, which occurs prior to the meeting officially starts. Statement/questions at Cabinet/Scrutiny.	Questions at Full Council require seven days notice, registering to speak at Cabinet and Scrutiny Committees takes place before the meeting starts	3 minutes	30 minutes (Council) – 15 minutes (Cabinet and Scrutiny)
Harlow Council	Two questions, additional supplementary	Two working days notice	None indicated	30 minutes (Council) 15 minutes – Cabinet/Committees
Maldon District Council	Questions to Council/Overview and Scrutiny	Two clear days' notice. Overview and Scrutiny questions do not require pre-submission.	2 minutes	10 minutes
Rochford District Council	Questions – max 2 per person	By noon, 7 days before the meeting	3 minutes per question 1 min for the supplementary	None indicated
Southend Borough Council	Questions - max 2 per person	5 clear working days before the meeting	None indicated	30 minutes
Tendring District Council	Questions only permitted at Local Plan Committee and Planning Committee			

Uttlesford District Council	Questions	By noon, 2 working days before the meeting	3 minutes per speaker	15 minutes
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6.4 Supplementary Question

6.4.1 The opportunity to ask a supplementary question was the leading response from members of the public when asked how Have Your Say! could be improved. In addition, there were also a number of comments, categorised as 'Other' which would support the introduction of supplementary questions. Colchester Borough Council's Constitution already provides for an additional one minute for the speaker to respond to questioning from a member of the Committee. A rewording of the Constitution would be required to allow for this extra minute to be used for a supplementary question.

6.4.2 A suggestion was made that the additional minute for the supplementary question could be taken from the existing three minutes allotted for public speaking. The majority of responses to the public survey indicated that they did not feel that Have Your Say! provided enough time to speak. In addition, reducing the time limit to two minutes may cause some concern for those members of the public who do not wish to ask a supplementary question.

6.5 Location of Have Your Say! Speaker

6.5.1 In response to the public consultation, no comments were received about changing or improving the location of where members of the public spoke from. In response to an earlier question in the survey 70% of respondents felt either welcome or very welcome when they arrived at a Committee meeting.

6.5.2 The suggestion to provide a roving microphone could be adopted in order for members of the public to speak from their seats. However this may require extra support staff to ensure that the microphone is working and delivered to the relevant member of public, it could also lessen the Chairman's ability to control the meeting.

6.6 Submission of written questions

6.6.1 The majority of Councils included in the table allow for written questions to be submitted through e-mail, however they do not then accept questions to be asked at the meeting without pre-notification. Introducing written questions has the potential to significantly increase the workload for officers in processing the questions and assisting Councillors in responding to the question. There would also need to be an agreement on how the written questions and responses are dealt with at Committee meetings given the current time provisions for Have Your Say! and how multiple questions on the same subject would be dealt with.

7 Social Media

7.1 Suggestions to enhance the type and frequency of messages relating to Committee meetings and items of business sent out from the Council's Twitter account related to Committee agendas have been discussed with Jo Parlett, the Council's Marketing and Communications Manager. She confirmed she would be very willing to attend the next meeting of the Committee to discuss the issues in more detail. She has provided examples of a range of factual tweets about business to be conducted that could be posted by the Communications Team leading up to a meeting taking place. However, the use of Twitter to promote meetings and participation in Have Your Say!, to highlight items of business

and to communicate information about the democratic process were not things that she considered could be accommodated. She explained that the Communications Team were required to work in accordance with the Council's Social Media Policy and the Employee Code of Conduct. As such the team must remain neutral, with tweets needing to be restricted to business being conducted only whilst the posting of tweets during meetings would have to be restricted to decisions only with no commentary. She was also of the view is that this is not a good use of social media. She confirmed that the Communications Team would be able to post tweets to encourage Have Your Say! attendance, although she cautioned that simply raising a profile was not necessarily a guarantee of better participation.

- 7.2 In terms of the potential for a separate twitter account for democratic / meeting related matters, the Marketing and Communications Manager's view is that the existing Council Twitter account is for strategic messages which should include the meetings related matters. Currently further consideration of separate Twitter accounts require the submission of a business case to demonstrate need and the ability to offer additional engagement. Regarding the use of other social media platforms to highlight meetings related issues, the Marketing and Communications Manager's view is that, this would be deemed a strategic part of the Council's business and, as such, the website would be considered the best vehicle to provide this information. She explained the use of other platforms might lead to a duplication of the function of the website, which was the Council's accepted home for key messages and key information.
- 7.3 It's considered that there is not sufficient capacity in the Communications or Democratic Teams to accommodate the suggestions regarding tweeting during meetings or responsibility for a dedicated 'meetings' Twitter account. The adoption of a streaming solution may negate the need to consider alternative social media options, given also the ability of individual councillors to use their own social media accounts. Automated software solutions are available which integrate with particular agenda / minute publication platforms but this would be subject to additional financial costs.

8 Members' Room Improvements/Members' Teas

- 8.1 The Members' Room at the Town Hall is not currently a particularly welcoming or useful environment for members. It currently contains the pigeon holes for members' post together with number of shelving and filing arrangements containing documents that are rarely referred to. It also contains the camera and computer equipment for the issuing of security cards. There is comparatively little seating and no facilities for the charging of devices. A modest refurbishment of the room would provide members with a much more user friendly place to work and meet cross-party, especially before meetings. The relocation of the pigeon holes to the group rooms would also improve the security of the pigeon holes, which are currently in an unlocked room.
- 8.2 It was previously the practice to provide members with a light tea in advance of Council and Committee meetings. Members valued this as an opportunity to meet and discuss matters in an informal cross party environment. Some members have indicated that they would welcome its reintroduction as it is felt that it helped make meetings more business-like, shorter and less confrontational. In addition, the provision of a light tea may help those arriving straight from work, who may not have the opportunity to eat in advance. However the Council no longer has an in-house catering service. The provision of some basic catering facilities in the Members' Room, such as a sink unit, microwave oven, crockery, tea/coffee making facilities, would enable members to prepare hot drinks and light food, and meet together before meetings.

8.3 Colchester Borough Homes have provided some indicative costs for refurbishment of the Members' Room, to include

- Removal and relocation of the pigeon holes;
- Redecoration, including new carpet and lighting;
- Installation of a tea bar kitchen;
- Installation of docking station points;
- Replacement of furniture

The estimated total costs are approximately £17,000 although it is stressed that this includes a number of options and it would be possible to proceed with only those that members deemed necessary. This excludes the relocation of the equipment for the security passes and the practicality and costs of this are being looked into.

9 Develop Further Training Opportunities for Councillors

- 9.1 The Council has recently agreed to seek reaccreditation for Member Charter Status for Elected Member Development. The key elements of the Charter are that member development should be member led and that structures and processes are in place to deliver training and development that meets members' needs and supports the Council's corporate and strategic priorities. In addition strategies must be in place to evaluate the benefits development brings both individually and to the Council as a whole.
- 9.2 As part of the work towards Charter Status the Council will be seeking the views of all members on their training needs through a number of tools including Personal Development Plans and Training Needs Analysis forms. This information will be used to draft a new Training Plan for the Council.
- 9.3 Member development is managed by an all party Member Development Group and each political group has a dedicated budget to fund training and development. It is open to all members to suggest areas or subjects on which they would like to see training provided. These would be considered by the Member Development Group and the costs met from the existing member development budget.
- 9.4 Training is mandatory on quasi-judicial functions such as Planning Committee, Licensing Committee and Code of Conduct hearings. Consideration could be given to making training on other areas mandatory, such as:-
- Safeguarding
 - Chairing Skills for all Chairmen;
 - Scrutiny training for Scrutiny Panel members

Review of meetings and ways of working

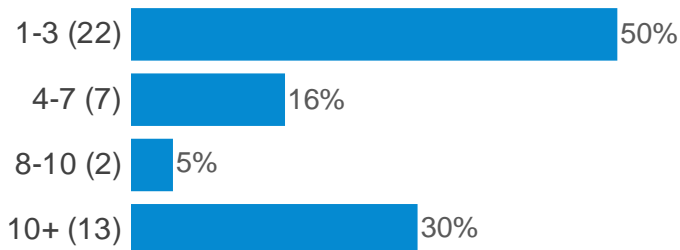
This report was generated on 20/02/17. Overall 81 respondents completed this questionnaire. The report has been filtered to show the responses for 'All Respondents'.

The following charts are restricted to the top 12 codes. Lists are restricted to the most recent 100 rows.

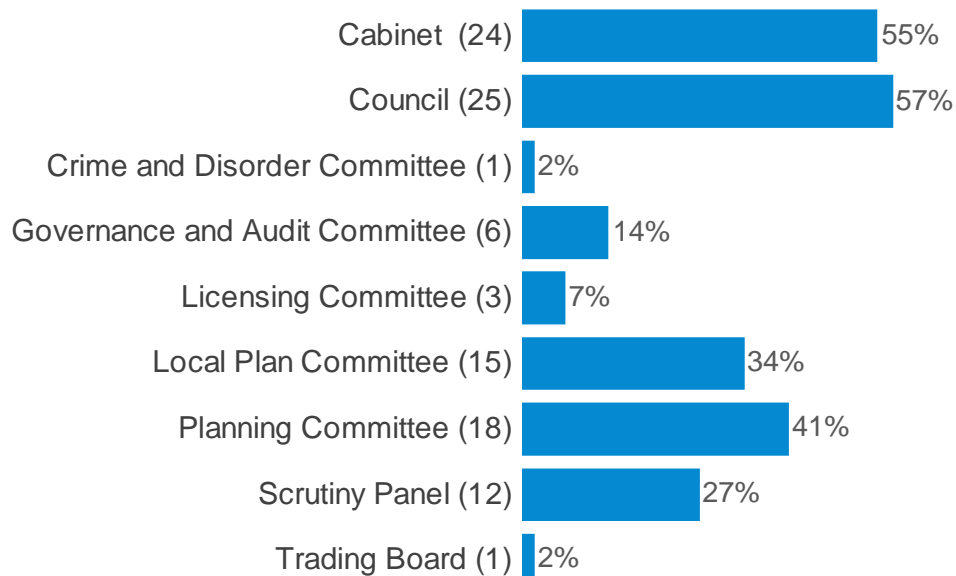
Have you attended a Colchester Borough Council Committee meeting?



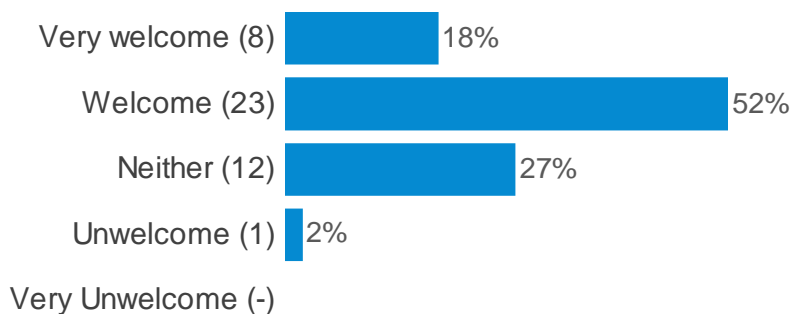
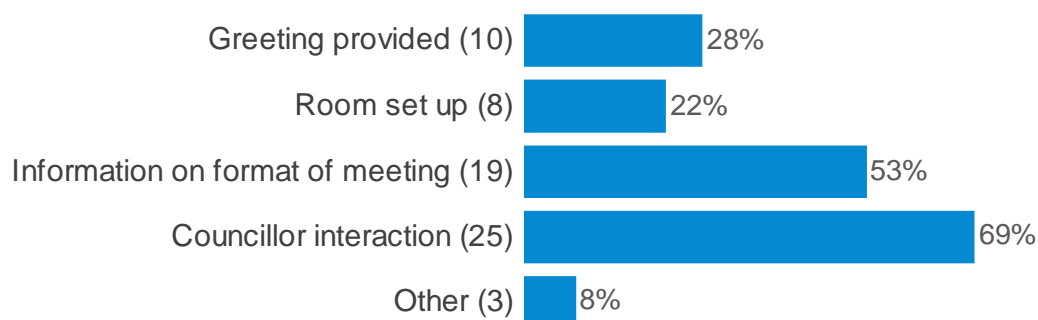
How many meetings have you attended?



What types of meeting have you attended?



Review of meetings and ways of working

How welcome did you feel when you arrived at the meeting? ()**How could we improve this aspect, and make you and others feel more welcome?****If you selected 'other' please specify in the space below how we can improve**

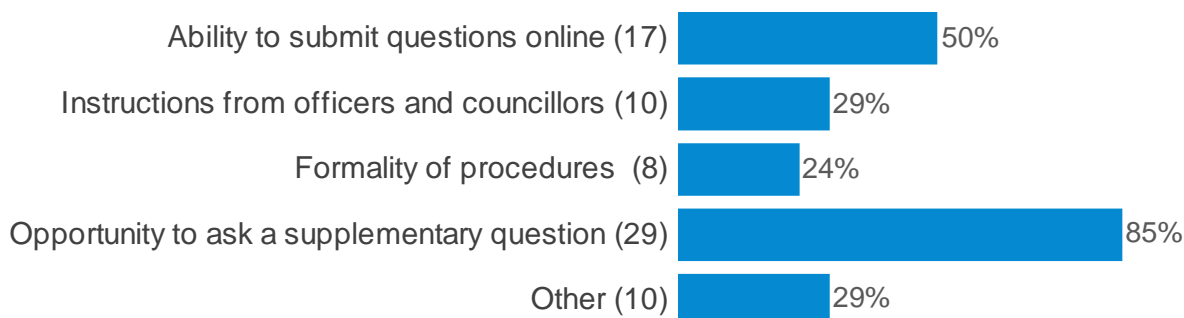
Actually being listened too and Cllrs acting on residents wishes.

Re-arrange room - inclusivism

Lack of time given to representative of local parish council.

Did you feel that the time you had to speak as part of "Have your say" was adequate?**Do you feel that the 'Have your say' arrangements could be improved?**

Review of meetings and ways of working

How could this be improved?**If you selected 'other' could you specify how this can be improved?**

Right of reply, even if brief

Have your say is literally that. You get to speak and have no further interaction when council chooses not to answer, deflect, fob off or plain old lies in response.

Councillors listen

It is pointless putting forward a coherent and logical case when a single councillor just says, without any factual justification, that the council will continue regardless.

Having the facility to answer the Councillor's reply.

Much longer to speak and chance to quiz councillors. A proper dialogue and accountability.

Definitely more time required to make comments / ask questions / challenge councillor statements

Councillors to relate answer to question.

Once I was stopped after only 3 minutes! As councillor this should not have happened.

To be able to question officer views at the meeting and their conclusions.

What steps could Colchester Borough Council undertake to encourage you to attend?

Later start times mid week, Saturday Sunday meeting

Notice period increased, better social media. Immunisation to alert us. More socially acceptable time. A vast majority work in London. Also provide free parking if you register to attend

Share meeting agendas more widely

Vary the times and days of the week they happen, there are people who are unable to attend due to work. Record/stream the meetings.

Later starts

A lot more notice. I would really like to attend but an NHS consultation about the Walk-In Centre is on the same date& time in Colchester. Tiptree is too far away without a car.

Give good easy to access public knowledge

Take place later evenings or weekends

Publicise better, record for posterity better

Free parking

None - they haven't been on anything I care enough about. If I wanted to go I would already.

I have spent almost 40 years in Local Government and have not seen the need to attend meeting at Colchester

Make them later in evening

Timings of meetings - need to provide childcare

Review of meetings and ways of working

What steps could Colchester Borough Council undertake to encourage you to attend?

Live Stream Meetings

Give the impression that attendance would be worthwhile and any comments under Have Your Say would be taken into account

perhaps hold some of the meetings around the borough, rather than just in Colchester

Being seen to support, not just talk

None

better advertising of them would be a help, either in local paper or by mail shots or email.

Advertise meetings well in advance

Give the peace of mind that attendees are listened to and respond to requests even if the answer is no

Maybe more leaflets which contain comprehensive information and list the relevant benefits to the local residents. This is to enable and attract people's attention and interests to participating more.

Publish agenda in advance. Make system fairer for members of public to speak by allocating the same amount of time to councillors as members of the public. Allow public to respond.

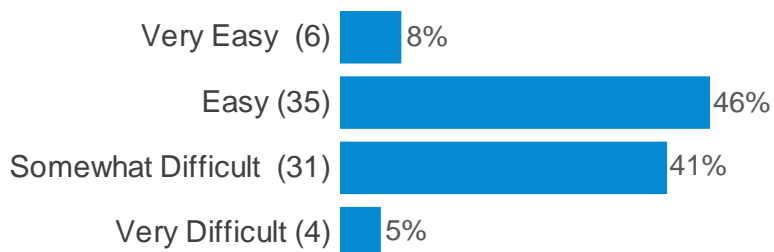
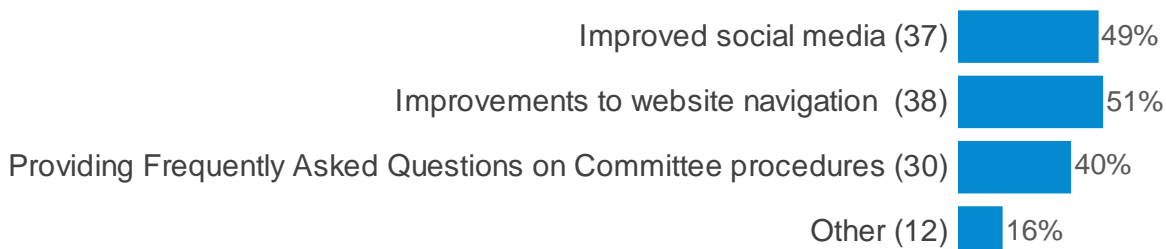
I didn't even know we could attend meetings.

Evening meetings:- refreshments

Would come if items of interest are on the agenda

At more convenient times - currently no good when you commute outside of borough for work

Provide well publicised pre committee documentation so that I can make an informed voice about whether to attend.

How easy is it to access Colchester Borough Council Committee information, such as meeting dates, agendas and items that are discussed?**How could we improve the accessibility of agendas?**

Review of meetings and ways of working

If you selected 'other' could you provide an example of how we can improve accessibility.

Less jargon and technical language in agendas

Set up pop-up information points in town centres such as Red Lion & Culver & other places also at public events such as music, food, education, arts events & hand out dates & times. An app for those who prefer phones.

Council should offer a single calendar view of all council meetings in a format which allows residents to easily access and create reminders in their own on-line calendars e.g. format as for Google Calendar

Have them available in print form in public buildings. Use them as the screen saver on public access computers for those who don't have access to their own PCs. Promote and publicise agendas amongst voluntary agencies and GP surgeries where the public can see them

Do an edited summary showing what would be of interest to the public rather than pages of turgid waffle.

The agendas are easily accessible - I think the main problem is general apathy and lack of interest

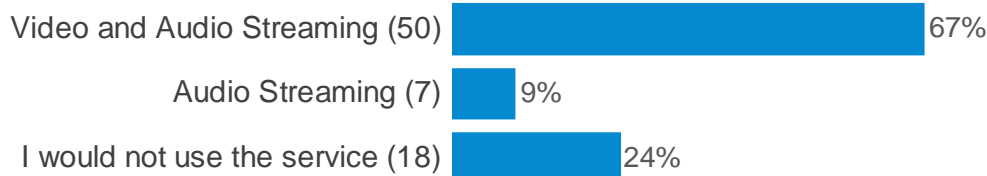
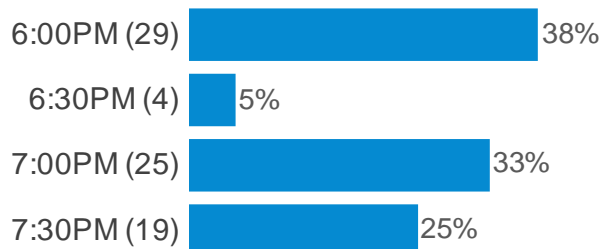
Major initiatives affecting most residents, eg waste policy, should be set out in an annual letter sent to all households with the council tax bill. This would alert people to issues that may be of concern to them.

Notices in Local Newspapers

e-book publication

Problems with councillor emails

Notification e-mails

If Colchester Borough Council live streamed its Committee meetings (live broadcast of meetings online), would you find this service useful? if so would you prefer a video or audio stream?**Currently Committee meetings start at 6:00PM. Out of the following, which start time would be preferable to you?**

Review of meetings and ways of working

If you have any further comments on how to improve our Committee meetings, space has been provided below for you.

Right to reply to cllr response to have your say

As well as video and audio streaming committee meetings feedback needs to be obtained which can be done quickly through the use of hash tags on social media etc.

Location....take meetings to the public. Outdoor meetings. Get passers by interested

It's good that you are doing this. You need to teach people that they are part of the council too not see you as the enemy. Perhaps invite people to raise an issue they would like to see addressed& illustrate from start to finish how it gets dealt with at committees?

Audio streaming service would be appropriate and should avoid everyone becoming too worried about appearance - and discouraging members of the public attending and contributing. HOWEVER, slides and documents need to be included if they are to be discussed. Suggest there is a blog with each meeting akin to the Gazette reporter notes but with a few more snaps when material is being presented.

As the majority in colchester commute daily to London weekend meetings would be better

Have a link councillor who liaises with members of the public attending meeting to welcome them and find out a bit about them

Allow the public to record, broadcast, use social media

Colchester Council has repeatedly refused to discuss their failed project the Visual Arts Facility and refused to consider more financially beneficial uses of the so called "Cultural quarter". Colchester Council permitted the sordid Lexden sex club to operate despite repeated warnings of planning breaches, verbal abuse and assaults. They even refuse to let me speak at committee meetings about this as it is apparently not in the "terms of the committee". So instead of speaking for three minutes inside I now stand outside for an hour before every council meeting shaming this arrogant and incompetent body. I have been shocked at the council neglect of some of their property assets. For example the council refuses to let the Spring Lane nursery be used to grow plants for public troughs. Colchester Bloom what be keen but repeated refusals ensure it is only used to store one rubbish container. Councillor Dave Harris is aware but his approach was rejected by the parks dept. Clearly the present committee system only reflects the turgid mindset of the council and is not working as an effective communication tool

I'll make a written submission and call in on the 21st Jan

In Planning meetings the public have the opportunity to speak on a PA to be determined. On more than one occasion the officers and sometimes the ward councillors get their facts wrong and inaccurate information is given to the planning committee members. There is no opportunity given to the public to correct these inaccuracies when they occur. In particular when a designated Parish Councillor speaks on a PA they are not given a right of reply to officers or ward councillors, yet are generally the most qualified attendee on local matters.

Generally meetings are well organised but restrictions on the number and time allowed to make points is sometimes frustrating particularly at planning meetings

better audio quality in the Council chamber and all other rooms in the building would be very helpful especially for those with a hearing impairment

please stream meeting visual and audio , you need to engage more on social media. perhaps set up a separate twitter account to the @yourcolchester account solely for this purpose and not advertising events etc...

Have Your Say - no opportunity for interaction.

I would really appreciate a more interactive meeting agenda list, findings from the meetings and broadcasts on social media. It is where i spend most of my time when i want to know more about my community and feel that the council could improve their usage of social media forums.

Right to reply to cllr's response

Review of meetings and ways of working

If you have any further comments on how to improve our Committee meetings, space has been provided below for you.

Much, much more business should be held in public. The make up of the Planning Committee should not change each time, especially not to achieve the result certain political parties want!

no

Councillors listening to what is being communicated would be a start. A reasoned response would come next.

A rule on changing proposed decisions on the basis of public feeling.

See Q14

The ability to vote or show support for proposals online, so residents views were directly fed into the Council's decision making processes.

(a) Bring back Committees (b) Involve Back Bench and Opposition Councillors equally - Abolish the Cabinet

More interaction with public. At meetings lets have a good debate.

Timing 6pm too early for commuters, Location - go out to community - leave ivory tower. Reduce lecture time taken by some councillors to speak on their own agendas. Desist from blame culture - deal with issues - causes - don't waste time on blame. It alienates you.

Greater belief that the outcome hadn't been predetermined. Feeling powerless - Bradwell a good example - not sure that Colchester BC views will be count despite being in blast area.

Live stream council meetings! Already being done around Essex.

Sort out the roads

I would attend if there were meetings in Tiptree as do not drive plus I work in Tiptree and live here.

Recognising other officials, other than borough councillors, such as chair and vice chair of parish full council and sub committees.

Council tax in Tiptree charge for police - we have none! Highways/footpath don't cut trees.

The ability to send comments in by e-mail.

Use of social media

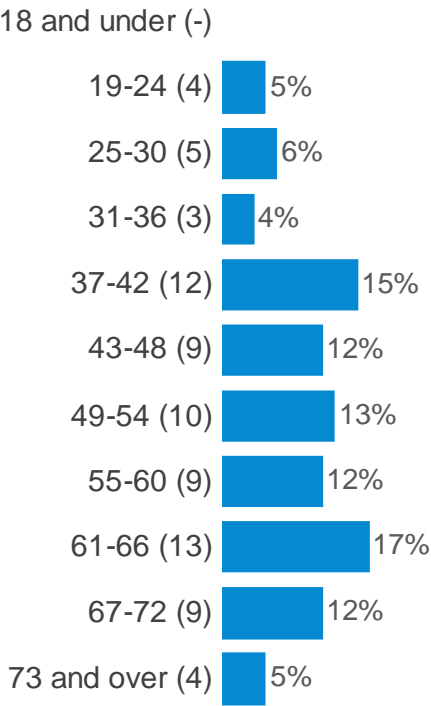
Less political 'tit for tat'

If you would like to be added to our Committee newsletter list, which provides details of Committee meeting agendas, please provide your e-mail contact information below.

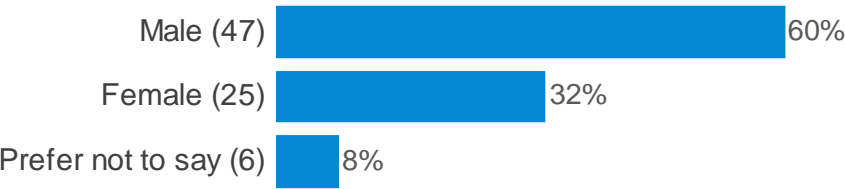
Review of meetings and ways of working

If you would like to be added to our Committee newsletter list, which provides details of Committee meeting agendas, please provide your e-mail contact infromation below.

What is your age?



What is your gender?



Where do you live (Please provide the first three digits of your postcode)

CO4	CO3	CO1	CO3
CO3	CO2	Co1	co5
Co4	CO3	Co5	Co4.
CO1	co4	CO3	CO4
CO1	CO1	CO4	CO3

Review of meetings and ways of working

Where do you live (Please provide the first three digits of your postcode)

CO1	CO3
co7	CO5
CO3	CO3
CO7	CO5
Co5	CO1
CO1	CO5
CO6	CO5
Co4	CO5
CO1	CO5
CO1	CO5
CO2	CO5
CO6	CO5
CO6	CO1
CO3	Co3
co4	CO3
Co4	
CO2	
New Town	
Co3	
Co6	
CO2	
co2	
CO4	
CO4	
CO2	
CO3	
Co3	
Wivenhoe	
CO3	
CO5	
CO4	
Co2	
CO5	
co3	
Tiptree	
CO5	
CO5	
CO3	
CO5	
CO1	

Appendix C

I took the opportunity to attend the **CONSULTATION** session regarding 'interacting with the public' at the session in the Grand Jury Room on 21st Jan. Councillors will know I have attended a fair few meetings over the last ten years. I promised to submit my views and suggestions in writing, so here goes-

IS IT WORTH BOTHERING? In respect of attending to comment on contentious policy decisions at **Cabinet**, probably not. Views from the public are politely 'noted'. Cabinet members make approving remarks and each item is nodded through. In that respect, not much point except to form opinions of the policy and those rubber-stamping it.

It might be worthwhile attending if you are raising a local or personal matter under general HYS. There is then the prospect of some follow-up.

In respect of the **Scrutiny** panel, it is rare for either Portfolioholders or Officers to concede a point or accept grounds for criticism. Scrutiny from the panel is usually pretty tame. Half of the panel are unlikely to put their own party leaders on the spot. Too many comments, not enough questions. Therefore a member of the public has virtually no chance of influencing the outcome.

In respect of simply observing both those meetings, first-time attendees may well be disinclined to come again.

Apart from debating really substantive matters, **full Council** meetings are more show than substance. The high spot for an observer should be 'questions to the portfolioholders. That is if they can sit around that long.

That is where we see which ward councillors get on their feet and ask what of whom. Which questions are for self or party promotion and which really challenge? This is more important than perhaps some councillors think. In my view it is wrong that this is at the end of the agenda when everyone has lost the will to live and the public seats are empty. It should come after Mayor's announcements and before items for debate.

Motions by members or groups that comment on government policy and not in the strict remit of Colchester Council should appear last on the agenda.

TIMING AND ACCESS. First item on the agenda after an 18.00 start excludes the vast majority of working residents and/or those relying on public transport. An 18.30 start would assist and speakers should be allowed up to four minutes.

A SUGGESTION. Every 8 to 12 weeks a mini ‘**Cabinet listening**’ session be set up in an appropriate room on a Saturday morning in the T/H, or another suitable venue. Formal, minuted, recorded and chaired by The Portfolioholder for Customers. It would enhance that otherwise questionable role.

That P/H would sit with two or three other cabinet members. They should include the Leader or Deputy Leader, or Deputy to the Leader and at least one other cabinet holder. Not necessarily the same ones each time.

They would be available from 10 am to 12 noon and accept submissions and questions of up to four minutes from the public. A similar to format of existing HYS, with people registering to speak at any time up to 11.30.

This shouldn’t be too burdensome for those involved and opens up a route of engagement with those who can’t practically attend the evening meetings.

Whilst modern technology and social media has its place in the grand scheme of things, it must not replace direct engagement.

PUBLICITY. The website needs to be revised so the public can more easily drill down to consultations and meeting agendas. Each and every meeting agenda should make reference to welcoming HYS contributions and the criteria for submissions. The same should apply to printed posters listing meeting dates.

REACHING OUT. Perhaps there is a case for Cabinet members (eg Communities) to attend Parish and Town councils occasionally. Be on receive as well as transmit. It would reduce the impression that CBC is only interested in urban areas.

The results of this consultation need to be considered alongside improving outgoing press releases and P/H statements. Better information about contentious policies is needed whilst giving reassurances to those concerned. I hope CBC finds this contribution constructive.

Nick Chilvers. January 2017.

7th March 2017

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Amendments to the Council's Covert Surveillance Policy		
Wards affected	Not applicable		

This report requests the Committee to approve amendments to the Council's Covert Surveillance Policy following recommendations made in an Office of Surveillance Commissioners inspection report

1. Decision(s) Required

- 1.1 To note the outcome of the recent Office of Surveillance Commissioners inspection report.
- 1.2 To approve the amended Covert Surveillance Policy and the Use of Social Media in Investigations Policy and Procedure and that both policies be recommended to Council for inclusion in the Council's Policy Framework.

2. Background

- 2.1 The Office of Surveillance Commissioners ("OSC") approximately every three years inspect Local Authority's procedures in relation to their use of surveillance powers under the Regulation of Investigatory Powers Act 2000 ("RIPA"). The Council was last inspected in 2013. In previous years the OSC has physically attended at the Council's offices to inspect documentation and interview relevant staff, before writing their report.
- 2.2 The Council's current Covert Surveillance Policy was approved by this Committee at its meeting on 11 October 2016 as part of its annual review of the Council's Ethical Governance Policies.

3. The Inspection

- 3.1 The OSC decided to introduce a new approach to inspections particularly where a Council had reduced the use of RIPA (for example this Council has not used the powers since the last inspection). Authorities were asked to complete a detailed questionnaire, plus supply supporting documentation including policies and procedures, record keeping, training etc. That questionnaire was then considered by the OSC, before deciding whether an on- site inspection was required. After completing the questionnaire the OSC were broadly satisfied with the information given and sought a telephone call with the Senior Responsible Officer (the Monitoring Officer) in order to clarify some minor points and discuss the Council's approach to RIPA.
- 3.2 The OSC report was received in November 2016 and is very positive in terms of the Council's policies and the organisation's approach generally. There were some additions suggested to the Council's Covert Surveillance Policy which would improve its effectiveness. The amended Policy is attached at Appendix A to this report with the suggested additions shown in tracked changes.

4. Detailed Information

- 4.1 Covert Human Intelligence Source - the OSC suggested that whilst paragraph 2.4 of the Policy makes it clear that the use of a Covert Human Intelligence Source is forbidden, the paragraph should be expanded to include situations where a Covert Human Intelligence Source scenario might inadvertently arise together with the necessity of ensuring an individual's rights under Article 8 of the European Convention on Human Rights.
- 4.2 Authorising Officers - the number of Authorising Officers mentioned in paragraph 4 has been reduced from ten to four.
- 4.3 Social Media - the OSC recommended the inclusion of a new provision to deal with social/ personal media and related problems of online covert activity given the present day widespread use of personal sites and search engines. This recommendation is being made to all Local Authorities whose Policy did not deal with social media. Accordingly, the Policy has been amended at paragraph 9 and The Use of Social Media in Investigations Policy attached at Appendix B of this report is designed to provide guidance to officers around the use of social media involved in the investigation of potential criminal offences on behalf of the Council. This policy accords with current best practice as identified by the OSC.
- 4.4 It is currently the case that many of the Council officers who regularly investigate matters as part of their duties already use various forms of social media to assist them when conducting their investigations. This Policy will help manage and regulate that use to ensure it remains lawful and does not inadvertently render evidence as inadmissible, should a case proceed to court.
- 4.5 Training - the OSC highlighted the need for regular training for all officers potentially involved in the process and this will be provided in the near future as part of the roll out of the new Policy once it is adopted.

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 aims to set out the direction and future potential for our Borough.

6. Financial, Equality, Diversity and Human Rights, Publicity, Consultation, Community Safety, Health and Safety and Risk Management Implications

- 6.1 None.



Code of Practice on Covert Surveillance 2016/17

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

March 2017

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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.

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 Office of Surveillance Commissioners' Procedures and Guidance in relation to covert surveillance by public authorities ("the Code"). This is available on the Home Office website:

<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>

The Home Office has also issued guidance ("the 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 yourself with the contents of the Code and the Guidance.

Other guidance is available on the Office of Surveillance Commissioner's website:

(www.surveillancecommissioners.gov.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 Guidance. 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 should 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 Regulations 2003 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 Guidance. 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 Guidance 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 – ie 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 harmful 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 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 at any time 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 NETWORKING SITES

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.

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 endeavour to 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 Hub under One Council/ Corporate Governance/ Code of practice of covert surveillance.

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 Guidance
- engagement with the Office of the Surveillance Commissioners 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 Office of the Surveillance Commissioners
- supervising the maintenance of records.

13.0 COMPLAINTS

The Act, the Code and the Guidance are subject to monitoring by the Office of the Surveillance Commissioners. 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

14.0 QUERIES ABOUT THIS CODE OF PRACTICE

Any queries regarding this Code of Practice should be referred to the Monitoring Officer, Andrew Weavers on ☎ 01206 282213 or by email at andrew.weavers@colchester.gov.uk

Use of Social Media in Investigations Policy and Procedure 2016/17

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

USE OF SOCIAL MEDIA IN INVESTIGATIONS

POLICY AND PROCEDURES

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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 1998 , 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 Information and Project Officer or the Monitoring Officer.
- 9.2 Personal data gathered by the Council is subject to the Data Protection Act 1998. 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;
 - 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
- 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 periodically and 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.

7 March 2017

Report of	Head of Customer Services	Author	Sam Preston
Title	Income and Debt Policy 2017		☎ 282707
Wards affected	Not applicable		

This report concerns the Council's proposed Income and Debt Policy 2017 which covers corporate procedures for billing, payments and debt recovery.

1. Decision(s) Required

- 1.1 To review and agree the proposed Income and Debt Policy 2017.
- 1.2 To include the Income and Debt Policy as part of the annual review of the Council's Ethical Governance policies.

2. Reasons for Decision(s)

- 2.1 To agree procedures for managing Council income and debt recovery in order to provide a consistent service for customers.
- 2.2 To review and improve the Council's income and recovery processes, particularly with its aim to become increasingly commercial.
- 2.3 To reduce overly administrative processes to ensure that teams are working as effectively as possible.

3. Supporting Information

- 3.1 The Council's Corporate Debt Policy was last revised and adopted in March 2015 and reviewed by the Scrutiny Panel in 2016. The existing Debt Policy sets out procedures for:
 - Billing and invoicing
 - Recovery and enforcement action
 - Debt Write-Off
- 3.2 The Council has historically offered a wide range of payment options, some of which are now outdated and create significant processing costs or an administrative burden. Investment into improving payment options that are quick and easy for customers whilst reducing administration has helped to establish key preferred options. The following work has been carried out to encourage the use of these options:
 - Direct Debit Campaigns including the wide promotion of Direct Debit across Customer Services and through social media
 - Upgrades to online payment portal providing an improved customer experience
 - Mobilisation of website enabling customers to pay using mobile devices
 - Payments Project to carry out proactive contact with customers using cheques and payzone cards to support them to use alternative payment methods

- 3.3 A regular and effective review of outstanding debt is required to enable the Council to assess whether there is reasonable chance of recovery. Where there is no chance of recovery it is important for debts to be written off to enable effective accounting and to allow resources to be directed towards pursuing recoverable debts.

Part 3 of Colchester Borough Council's constitution provides procedures delegated to the appropriate Portfolio Holder for reviewing debts over £5,000, which have been identified as difficult to recover. For debts under £5,000 the write off authorisation levels are set out within the Debt Policy.

4. Proposals

- 4.1 It is proposed that the Debt Policy includes standards and procedures for payments going forward. This will help to set out a corporate standard for payments as a basis for all Council income streams. As well as combining payment methods into the Policy there are a number of other proposed changes that will contribute towards reduced costs and administration.

- The Debt Policy will be renamed the Income and Debt Policy and will cover:
 - o Billing and Invoicing
 - o Payment methods
 - o Recovery and enforcement action
 - o Debt write-off
 - o Search/Tracing
- The Policy will set out the Council's preferred payments options which should be used by all services where possible. The preferred payment types are Direct Debit, Direct Data (which includes BACS payments), Debit Card (Online and Automated Payment line) and Standing Orders.
- It is proposed that the Council will stop accepting cheques, payment cards and postal orders from 1 April 2017 unless by exception.
- To amend write-off limits as follows:

Debt Value	Process	Authorised Person	Notes
Up to £25	Write off on system with a screen note	Corporate Debt Officer/Revenues Officer	This is an increase from up to £5
£25 to £100	As above but with spot checks by Income and Corporate Debt Manager noted for audit	Corporate Debt Officer/Revenues Officer/Income and Corporate Debt Manager	This is an increase from up to £25 and streamlined process
£100 to £5,000	Investigation report complete (standard template) and signed by Income and Corporate Debt Manager Debts batched into a schedule for write off with cover sheet totalling write off amount	Income and Corporate Debt Manager/S151 Officer	Same as current

Over £5,000	Portfolio Holder Report with detail and reasons for each debt write off. Reports split into Council Tax, Business Rates and Commercial Debts and completed quarterly.	Portfolio Holder for Resources	Same as current but with split and frequency of reports specified
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5. Strategic Plan References

- 5.1 An effective Income and Debt Policy ensures that the Council collects the monies due to it, therefore helping to underpin the delivery of its Strategic Plan Objectives.

6. Consultation

- 6.1 Internal consultation has been carried out to ensure that stakeholders have had input into the development of this policy.

7. Financial implications

- 7.1 There should be not specific financial implications associated with the policy, however improved process and procedures should help to improve income collection and debt recovery.

8. Other standard references

- 8.1 In considering equality, diversity and human rights, health and safety, community safety and risk management implications there are none which are significant to the matters in this report.

Appendices

Appendix A - Draft Income and Debt Policy 2017



Income & Debt Management Policy

Customer Solutions

March 2017

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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>Council Tax</i>	<i>Business Rates</i>	<i>Housing Benefit Overpayments</i>	<i>Sundry Debts</i>
<i>Account administration</i>	Council Tax Team	Business Rates Team	Housing Benefit Team	Individual Service Area
<i>Systems Support</i>	Technical Team	Technical Team	Technical Team	Finance
<i>Billing</i>	Technical Team	Technical Team	Technical Team	Income Team
<i>Payment Processing</i>	Income Team	Income Team	Income Team	Income Team
<i>Debt Recovery</i>	Corporate Debt Team	Business Rates Team	Corporate Debt 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 will streamline the number of available payment methods whilst improving self-serve options with the aim of reducing processing costs and onerous administration for outdated methods.
- 4.2 The Council's preferred methods of payments are:
 - 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 Payment options that create an administrative burden will be phased out. This will include payments by Cheque, Payment Card or Postal Order.

4.5 The Council will support customers to switch to the preferred payment methods including:

- Proactive customer contact by phone and letter
- Bulk text messages and emails
- Direct Debit promotional campaigns

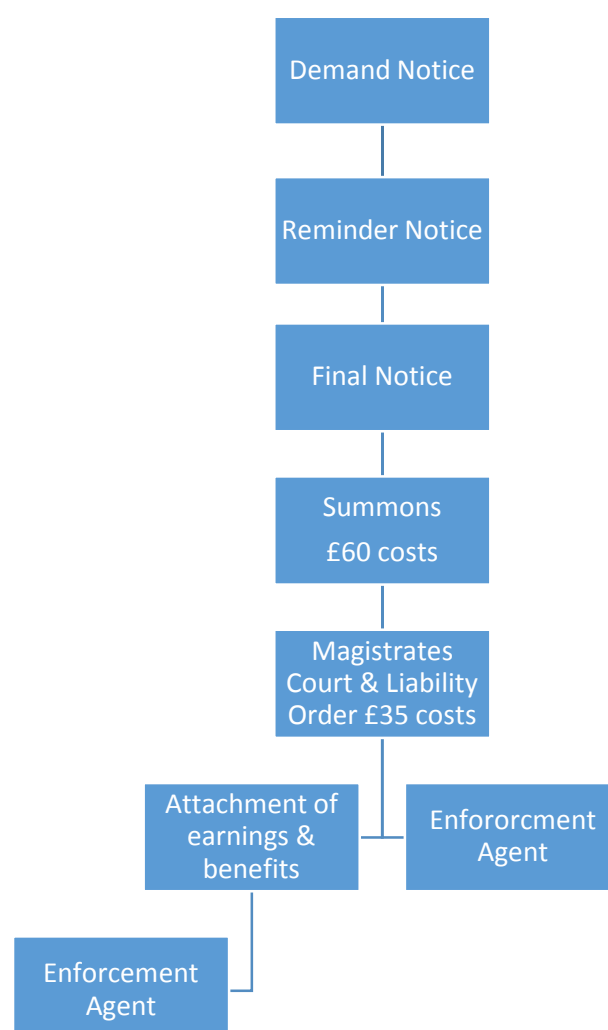
4.6 It is acknowledged that there may be exceptional circumstances where payments would be received in a method that is not preferred for example if a customer is very vulnerable or if they were in a formal enforcement process.

5. Recovery of unpaid debts

5.1 For a variety of reasons, revenue due to the Council will not be paid as requested. The Corporate Debt Team and individual services must commence recovery action as soon as possible to maximise the probability of debt recovery.

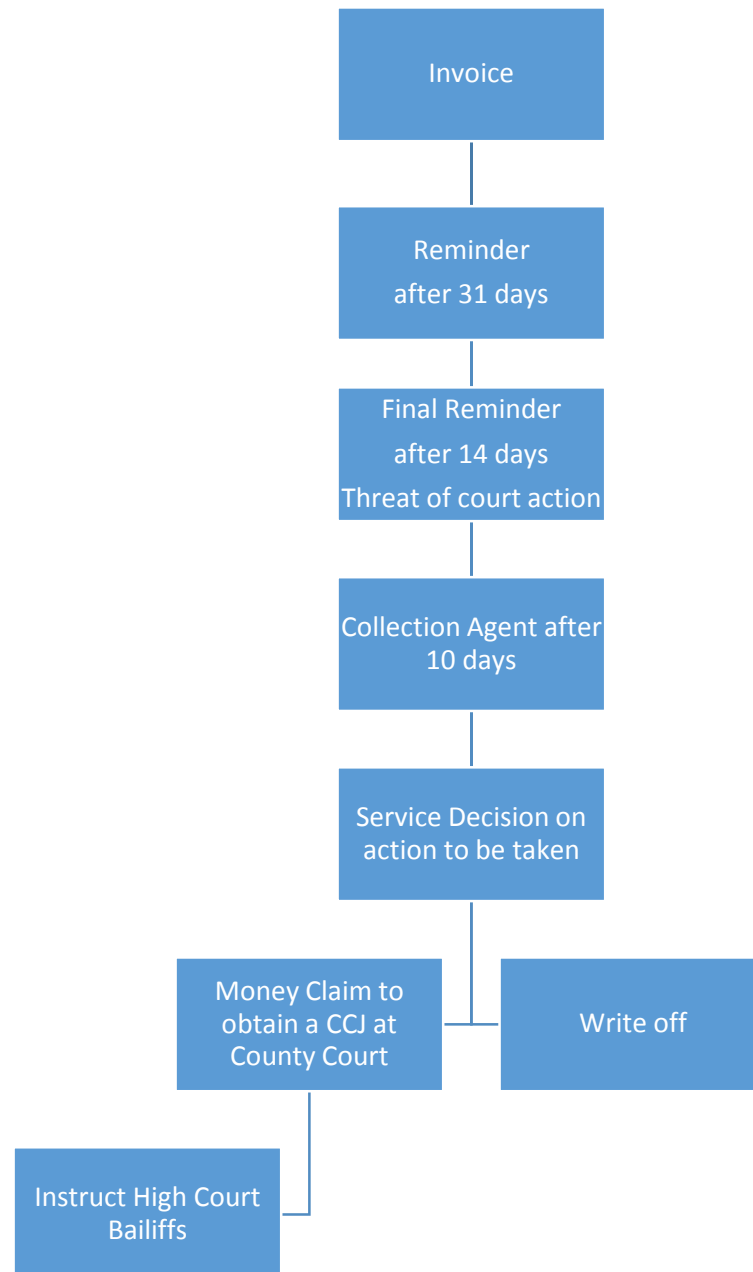
5.2 Reminders will use nudge and persuasive techniques that are most likely to attract prompt payment.

6.1 Council Tax and Business Rates Process



7. Sundry Debt Processes

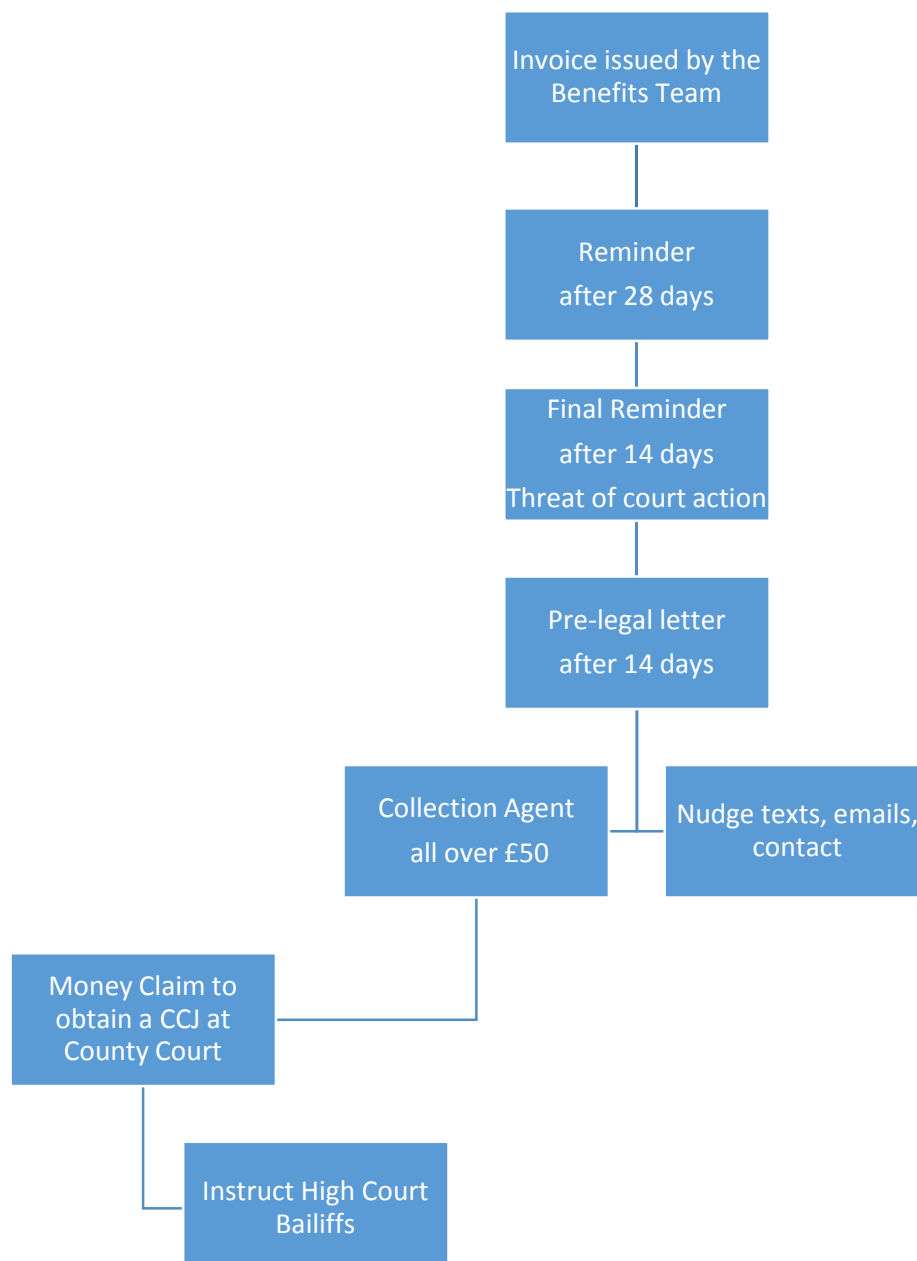
- 7.1 In the cases of sundry debts it is the service or relevant manager who should decide whether enforcement action should be taken. The income team will inform services of any debts owing to them and they should respond to say whether each case should then be enforced.



- 7.2 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 (previously bailiffs)

- 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>
Up to £25	Write off on the system with screen notes using write off code	Corporate Debt/Revenues Officer
£25 to £100	As above. Income and Corporate Debt Manager to carry out spot checks and record for audit purposes.	Corporate Debt/Revenues Officer Corporate Debt Manager
£100 - £5,000	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 S151 Officer
Over £5,000	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 Councils 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 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 Road 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. Notice of Debt Registration** 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.