

Council Meeting

**Council Chamber, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 06 December 2018 at 18:00**

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

The Council welcomes contributions and representations from members of the public at most public meetings. If you would like to speak at a meeting and need to find out more, please refer to the Have Your Say! arrangements here: <http://www.colchester.gov.uk/haveyoursay>.

Audio Recording, Mobile phones and other devices

The Council audio records public meetings for live broadcast over the internet and the recordings are available to listen to afterwards on the Council's website. Audio recording, photography and filming of meetings by members of the public is also welcomed. Phones, tablets, laptops, cameras and other devices can be used at all meetings of the Council so long as this doesn't cause a disturbance. It is not permitted to use voice or camera flash functions and devices must be set to silent. Councillors can use devices to receive messages, to access meeting papers and information via the internet. Looking at or posting on social media by Committee members is at the discretion of the Chairman / Mayor who may choose to require all devices to be switched off at any time.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, using the contact details below and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets with lift access, if required, are on each floor of the Town Hall. A water dispenser is available on the first floor.

Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

Library and Community Hub, Colchester Central Library, 21 Trinity Square,
Colchester, CO1 1JB

telephone (01206) 282222 or textphone 18001 followed by the full number you wish to call

e-mail: democratic.services@colchester.gov.uk

www.colchester.gov.uk

COLCHESTER BOROUGH COUNCIL
Council
Thursday, 06 December 2018 at 18:00

TO ALL MEMBERS OF THE COUNCIL

Published 28/11/2018

You are hereby summoned to attend a meeting of the Council to be held at the Town Hall, Colchester on Thursday, 06 December 2018 at 18:00 for the transaction of the business stated below.



Chief Executive

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

Please note that the business will be subject to short breaks at approximately 90 minute intervals.

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

1 Welcome and Announcements (Council)

The Mayor will welcome members of the public and Councillors and will ask the Chaplain to say a prayer. The Mayor will also remind everyone to use microphones at all times when they are speaking, explain action required in the event of an emergency, mobile phones switched to silent and audio-recording of the meeting.

2 Have Your Say! (Council)

The Mayor will invite members of the public to indicate if they wish to speak or present a petition on any item included on the agenda or any other matter relating to the business of the Council. Please indicate if you wish to speak at this point if your name has not been noted by Council staff.

3 Minutes of the Previous Meeting (Council)

A... Motion that the minutes of the meeting held on 31 October 2018 be confirmed as a correct record.

31-10-18 minutes

11 - 28

4

Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other pecuniary interest or non-pecuniary interest.

5

The Mayor to make announcements.

6

The Council consider any items referred by the Scrutiny Panel under the Call-in Procedure because they are considered to be contrary to the policy framework of the Council or contrary to, or not wholly in accordance with, the budget.

7

Council will consider the following recommendations:-

7(i)

B... Motion that the recommendation contained in minute 308 of the Cabinet meeting of 21 November 2018 be approved and adopted.

7(ii)

C... Motion that the recommendation contained in draft minute 306 of the Cabinet meeting of 21 November 2018 be approved and adopted.

7(iii)

D... Motion that the recommendation contained in minute 307 of the draft minutes of the Cabinet meeting of 21 November 2018 be approved and adopted.

7(iv)

E... Motion that the recommendation contained in draft minute 72 of the Licensing Committee meeting of 14 November 2018 be approved and adopted.

7(v)

F.. Motion that the recommendation contained in draft minute 73 of the Licensing Committee meeting of 14 November 2018 be approved and adopted.

7(vi)

G.... Motion that the recommendation contained in draft minute 74 of the Licensing Committee meeting of 14 November 2018 be approved and adopted.

7(vii)

H... Motion that the recommendation contained in draft minute 134 of the Governance and Audit Committee meeting of 13 November 2018 be approved and adopted.

I.... Motion that the recommendation contained in draft minute 136 of the Governance and Audit Committee meeting of 13 November 2018 be approved and adopted.

8 Notices of Motion pursuant to the provisions of Council Procedure Rule 11

Council will consider the following Motions:-

(Note: The maximum length of time for the consideration of all such motions shall be 80 minutes. In the event that a motion is still being debated when the 80 minutes have elapsed the Mayor shall invite the proposer of the motion to respond to the debate and the move straight to the vote.)

8(i) Great Jobs

Proposer: Cllr T. Young

J... This Council believes that:

Every job should be a great job. For us that means workers in our Borough should be paid fairly; work in a safe and healthy workplace; be treated decently and with respect; have regular hours; have the chance to be represented by trade unions and be consulted on what matters at work; and get the chance to learn and progress at work and get on in life.

This Council resolves to:

1. Support the TUC's Great Jobs Agenda which sets out the actions employers and the government must take for every job to be a great job;
2. Ensure, as an employer, we continue providing great jobs for our own employees as well as support and opportunities for personal development;
3. Continue to value meaningful workforce engagement and representation through our recognised trade unions;
4. Continue our work with employers in the Borough to influence their employment practices and to ensure that business growth is sustainable and ethical. This includes our proactive work with the digital and creative industries in Colchester as a good example;
5. Make increasing job quality a key part of the conversation when pursuing local economic development opportunities in the Borough;
6. Use our commissioning and procurement processes, where possible, to raise employment standards amongst those suppliers and providers we work with;
7. Where appropriate engage with government and other

bodies who hold regulatory powers to tackle issues which local authorities do not have statutory powers to address directly;

8. Write to our Borough's MPs informing them of our position and encouraging them to support the Great Jobs Agenda too. As the motion relates to an executive function, it stands referred direct to Cabinet, unless the suspension of Council Procedure Rule 11(2) is approved.

8(ii) Library Services

Proposer: Councillor Laws

K... Motion that:-

This Council notes the review and public consultation that has been launched by Essex County Council in regards to library provision across the county, including within the borough of Colchester to meet the modern day demands of our residents. We recognise and agree that the current library buildings are outdated and need modernising.

Therefore, Colchester Borough Council pledges to work with our County Council partners to consider options around location, service access and opening hours as part of this review. We will support efforts to involve the local community in both shaping and delivering future library service provision within the borough.

As the motion relates to a non-executive matter it will be debated and determined at the meeting.

8(iii) Stop Essex County Council Library Closures

Proposer: Councillor Cory

M... Motion that:-

This Council notes with sadness the public consultation launched by Essex County Council to close libraries across the county, including within the borough of Colchester. Whether complete closure or transition to volunteer run services, this Council cannot accept the irreversible impact such plans have upon the social mobility and educational opportunities of our residents.

This Council believes that education and information are fundamental for individuals to be socially mobile. For centuries, Libraries have provided people with available and accessible books, information and educational resources. This historic principle is now under threat in our borough.

Colchester Borough residents access many services provided at our libraries, not just books, but free Internet, DVDs, audio texts, a range of Council Services, CAB support and much more. Libraries form a bedrock of our communities and their social fabric.

This Council believes that Essex County Council should focus on greater sharing of services with Borough, Town and Parish Councils, and other community groups interested in keeping vital libraries services available to all.

Therefore, we call upon the Leader of the Council to write directly to the County Council Cabinet Member (for Customer Services) to stop the consultation and closure plans. Furthermore, this Council calls upon Essex County Council to pursue alternative arrangements of greater service sharing with appropriate partners.

In support of Essex County Council, this Council calls upon the Leader of the Council to also write to the Secretary of State for Education and Secretary of State for Housing, Communities and Local Government to offer the needed resources to support the continued funding of vital library services across this County and many others.

As the motion relates to a non executive function it will be debated and determined at the meeting.

9 Questions to Cabinet Members and Chairmen pursuant to Council Procedure Rule 10

Cabinet members and Chairmen will receive and answer pre-notified questions in accordance with Council Procedure Rule 10(1) followed by any oral questions (not submitted in advance) in accordance with Council Procedure Rule 10(3).

(Note: a period of up to 60 minutes is available for pre-notified questions and oral questions by Members of the Council to Cabinet Members and Chairmen (or in their absence Deputy Chairmen)).

(i) Councillor Liddy to Councillor Cory, Leader of the Council and Portfolio Holder for Strategy

At this time of year, all of our staff on CBC and CBH, from the most senior to the most junior, deserve our gratitude for their hard work during the year. However, this year, it is our outdoor staff, particularly the recycling operatives, who deserve a special mention. In this year of climatic extremes their service to our Borough can only be described as magnificent.

As the year draws to a close, will the Leader and Deputy Leader of the Council, along with all group leaders join me in expressing our collective gratitude to all our outside workers who have worked so hard this year to keep our Borough's services operating to their usual high standard?

(ii) Councillor Chapman to Councillor Lilley, Portfolio Holder for Planning, Public Safety and Licensing
Could the Portfolio Holder expand on his plans, outlined in 'Centurion', the Council's newspaper, to recruit a Police Community Support Officer (PCSO) for rural areas. Also, can he tell us about the further plans for a PC and PCSO, plus Special Constables to be match funded by Parish Councils.

10	Schedule of Portfolio Holder decisions	45 - 46
	To note the Schedule of Portfolio Holder decisions covering the period 20 October 2018 - 21 November 2018.	
11	Urgent Items (Council)	
	Council will consider any business not specified in the Summons which by reason of special circumstances the Mayor determines should be considered at the meeting as a matter of urgency.	
12	Reports Referred to in Recommendations	
	The reports specified below are submitted for information and referred to in the recommendations specified in item 7 of the agenda:	
	Northern Gateway Appointment of Contractor - Report to Cabinet 21 November 2018	47 - 54
	LCTS report to Cabinet 21 November 2018	55 - 60
	Officer Pay Policy report to Cabinet 21 November 2018	61 - 76
	Hackney Carriage and Private Hire Licensing Policy report to Licensing Committee, 14 November 2018	77 - 114
	Gambling Policy - Report to Licensing Committee, 14 November 2018	115 - 162
	Pavement Permits - Report to Licensing Committee, 14 November 2018	163 - 182
	Local Code of Corporate Governance report to Governance and Audit Committee, 13 November 2018	183 - 214
	Review of Ethical Governance Policies report to Governance and Audit Committee, 13 November 2018	215 - 298
13	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)

14 Reports referred to in recommendations

The not for publication reports specified below are submitted for information and referred to in the recommendations specified in item 7 of the agenda:

Colchester Northern Gateway Appointment of Contractor Part B report to Cabinet, 13 November 2018

- This report is not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (financial / business affairs of a particular person, including the authority holding information).

Council

Wednesday, 31 October 2018

Attendees:

Councillor Christopher Arnold, Councillor Lewis Barber, Councillor Nick Barlow, Councillor Lyn Barton, Councillor Tina Bourne, Councillor Roger Buston, Councillor Nigel Chapman, Councillor Peter Chillingworth, Councillor Helen Chuah, Councillor Phil Coleman, Councillor Nick Cope, Councillor Simon Crow, Councillor Robert Davidson, Councillor Beverly Davies, Councillor Paul Dundas, Councillor John Elliott, Councillor Andrew Ellis, Councillor Vic Flores, Councillor Adam Fox, Councillor Martin Goss, Councillor Dave Harris, Councillor Chris Hayter, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Mike Hogg, Councillor Brian Jarvis, Councillor John Jowers, Councillor David King, Councillor Darius Laws, Councillor Cyril Liddy, Councillor Michael Lilley, Councillor Sue Lissimore, Councillor Derek Loveland, Councillor Andrea Luxford Vaughan, Councillor Fiona Maclean, Councillor Jackie Maclean, Councillor Patricia Moore, Councillor Beverley Oxford, Councillor Gerard Oxford, Councillor Philip Oxford, Councillor Chris Pearson, Councillor Lee Scordis, Councillor Lesley Scott-Boutell, Councillor Martyn Warnes, Councillor Lorcan Whitehead, Councillor Dennis Willetts, Councillor Barbara Wood, Councillor Julie Young, Councillor Tim Young

278 Prayers

The meeting was opened with prayers by the Mayors Chaplain, the Reverend John Richardson.

279 Apologies

Apologies were received from Councillors Bentley and Cory.

280 Minutes of the Previous Meeting (Council)

RESOLVED that the minutes of the meeting held on 18 July 2018 be confirmed as a correct record.

281 Have Your Say! (Council)

Nick Chilvers addressed Council pursuant to the provisions of Council Procedure Rule 6(5) to express his concerns about the Painters Yard planning application. The public

wanted to see more public space, better design and less density and mass. Whilst objectors had been told to look at the bigger picture, the Planning Committee could not abandon scrutiny and needed to look at the detail of the application. The Committee had a duty to consider the comments of the consultees, which included a number of objections from a number of reputable organisations. The Planning Committee hearing would be watched carefully to ensure members considered the application in a fair and objective manner. The adverse impact of the scheme significantly outweighed the benefits. The Council should consult seriously on the future of the site and put Colchester in control. A further years delay in order to get the scheme right would not matter.

Councillor Barlow, Portfolio Holder for Commercial Services, explained that the Planning Committee would be free to determine the planning application as it saw fit on the basis of the evidence before it.

Asa Aldis addressed Council pursuant to the provisions of Council Procedure Rule 6(5) about the Local Plan. A new option for the Local Plan had been agreed by the Local Plan Committee, which included the provision of a Sustainability Appraisal. LUC Associates had been chosen to deliver this. This had now been completed and it contained an extension to the garden community on land between the University of Essex and Wivenhoe. This was part of Wivenhoe's green belt and helped Wivenhoe maintain its status as a separate settlement. This site was protected by the Wivenhoe Neighbourhood Plan. It could set a national precedent by making national plans redundant. The site should be removed and alternatives considered. The sustainability appraisal contained no new garden community sites as was requested by the Inspector, nor did it include proportionate growth or neighbourhood extensions. There were a number of other issues with the Plan, for instance the use of Compulsory Purchase Orders, which did not work. In order to reduce the impact on Colchester, the OAN needed to be reduced to take account of the revised ONS population figures. The Plan should only consider the current plan period. There were real alternatives to the course proposed and this opportunity needed to be taken to ensure all other options were fully considered.

Councillor T. Young, Portfolio Holder for Business and Culture, stressed that it was vital for a Local Plan to be in place in order to control development. The Plan did not fail: more evidence had been requested and the Council was currently gathering this. A further letter had been sent to the Inspector and his response was awaited. The Sustainability Appraisal was being looked at, and officers were currently working to ensure that the Local Plan Committee had all the evidence it needed for a full Sustainability Appraisal. As part of this new Garden Community locations would be looked at. The Local Plan Committee had accepted the housing figure of 920: if the Council sought to review this, it was likely that the government would seek to revise it upwards. Other alternatives and options would be looked at over the coming months before the Local Plan Committee was invited to consider the matter further.

Trevor Orton addressed Council pursuant to the provisions of Council Procedure Rule 6(5) about the work he had undertaken to improve Colchester town centre. He thanked Councillors Goss, Laws and Higgins for their support. The Council needed to address a number of eyesores and issues in the town centre, which would help encourage tourists to return to Colchester.

Councillor Goss, Portfolio Holder for Waste, Environment and Transportation thanked Trevor Orton for his comments, and for his honesty and tenacity in raising issues. The town centre was improving as a result of the programme the administration had instituted, and there were more improvements to come. For example the old Odeon site would be cleaned up, and remedial works to Jumbo had been identified. There was considerable cross party work underway to address the issues that had been highlighted.

Katie Francis addressed Council pursuant to the provisions of Council Procedure Rule 6(5) to object to some of the supporting comments about the Painters Yard planning application. The limited Have Your Say provisions at Planning Committee, were insufficient to address the concerns raised by this application. It was claimed that the scheme would relieve pressure on HMOs in the vicinity of the University. This was not reflected by the experience in other locations. Whilst the University was looking to expand, it was seeking to support this through accommodation on campus. If the number of HMOs was a concern there were other methods of addressing this, such as through an appropriate policy in the Local Plan. The development also offered only one wheelchair accessible room. As the development was on public land, the Council should do more to promote equal access for all. It was also suggested that the development would have a positive economic impact on the area. However, the developers had overestimated the likely disposable income of students, and tourism could be adversely affected by the development. The proposal failed to make the most of the site history, and the developers had not taken account of advice from Historic England to move the western block, as this would affect the viability of the scheme.

Councillor Barlow, Portfolio Holder for Commercial Services, explained that Planning Committee speaking provisions could be amended at the Chairman's discretion. Councillor Hazell, Chairman of the Planning Committee, stressed that the Committee was independent and would consider the matter within the framework of planning law and local and national planning policies. It would seek to consider the application fairly and objectively.

282 Mayor's Announcements

The Mayor announced that the Council's Revenues Teams had been awarded a Revenues Team of the Year Highly Commended Award by the Institute of Rating, Revenue and Valuation (IRRV). This was a national award and was for the general work of the team who have achieved some of their best ever results whilst finding efficiencies and better ways of working. The judges had been really impressed with all of the improvements made over the last couple of years, and particularly at the commitment and enthusiasm of officers.

The Mayor expressed Council's thanks to the team and presented Samantha Preston, Customer Business Manager, Megan Shedd and Rhiannon Archer, Business Rates Officers, with the award.

Councillor Higgins presented the Mayor with 100 embroidered hearts made by the Embroidery Guild for display as part of the events to mark the 100th anniversary of the end of the First World War.

Councillor Higgins announced that Colchester had won a silver gilt in the Small City category in the Britain in Bloom awards and the Mayor thanked Pam Schomberg and her team for her hard work in securing this award.

The Mayor thanked all those who had attended and supported the Oyster Feast. There was a full programme of civic events coming up, including a performance of a Christmas Carol, and he hoped Councillors would be able to support these. He thanked those who had joined him on the Colchester Orbital walk. A successful curry quiz evening had also been held.

283 2017/18 Year End Review of Risk Management

RESOLVED that the recommendation contained in minute 295 of the Cabinet meeting of 10 October 2018 be approved and adopted.

284 IHRA Definition of Anti-Semitism

Alan Short addressed Council pursuant to the provisions of Council Procedure Rule 6(5). He stressed that he was appalled by the rise in racism and anti-semitism, which needed to be opposed wherever it occurred. He had a number of links to Israel. However he was concerned by the proposed motion and asked whether members had read all the illustrative examples that accompanied the definition. Some of the examples had been criticised by leading international lawyers who claimed that it would restrict free speech and circumvent the actual definition of anti-semitism. Would his opposition to certain policies or actions of the Israeli government lead to him being defined as anti-semitic? The motion did not make it clear what the Council would do as a consequence

of adopting the definition or how it would be applied.

Mark Bygrave addressed Council pursuant to the provisions of Council Procedure Rule 6(5). He had experienced racism all his life. He recognised that anti-semitism existed and he was fiercely opposed to all forms of racism. He was not convinced that anti-semitism was the greatest issue of racism facing Colchester. Islamophobia and racism against non-whites went unabated and unchallenged. The IHRA definition was a poor tool to tackle anti-semitism. He had written to all Councillors with details of the opinion of Hugh Tomlinson QC that the definition lacked clarity and comprehensiveness. The Council could find itself in legal difficulties should it use it to bar activities. If Council adopted the definition it should not adopt the examples, and it should also adopt a declaration of free speech alongside it.

Barry Gilheany addressed Council pursuant to the provisions of Council Procedure Rule 6(5). Anti-semitism was the oldest form of hatred in the world, and it had assumed many forms throughout history, including lately a more insidious form of anti-semitism relating to Zionism and the state of Israel. There was nothing in the definition or the examples which would restrict debate or free speech or silence academic discussion. The definition was signed by 34 countries, the Scottish, Welsh and UK governments, and all major political parties in the UK. It was racist to suggest that the foundation of the state of Israel was a racist endeavour. The Council should support the motion on the basis of anti-racist principles.

It was proposed by Councillor T. Young, on behalf of the Leader of the Council, Councillor Cory, and the other Group Leaders, Councillor Goss, Councillor Laws and Councillor G. Oxford, that:-

1. This Council believes that we are proud to live in a diverse and tolerant society. Racism, xenophobia and hate crimes have no place in our country. Colchester Borough Council condemns racism, xenophobia and hate crimes unequivocally. We will not allow hate to become acceptable. We are pleased to note the strong stance that Essex Police have taken against these issues. Colchester Borough Council will work to ensure local bodies and programmes have support and resources needed to fight and prevent all these anti-social acts, and reassures all people living in Colchester borough that they are valued and welcome members of our community.”
2. As reflected in our Equality and Diversity Policies, the Council will continue to:
 - (a) ensure that unfair discrimination does not arise by promoting equality of opportunity, valuing diversity and promoting good relations between the diverse members of our community, as well as tolerance and understanding of the needs of others; and
 - (b) recognise that people need protection from unfair discrimination, as set out in the

Equalities legislation;

3. The Council notes:

(a) that, in December 2016, the UK Government became the first European Union country to formally adopt the International Holocaust Remembrance Alliance's working definition of Anti-Semitism; and

(b) the letter from the Secretary of State for Communities and Local Government, dated 30 January 2017, strongly encouraging councils to adopt the definition of Anti-Semitism.

4. The Council adopts the International Holocaust Remembrance Alliance's working definition of Anti-Semitism, as set out below:

"Anti-Semitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of Anti-Semitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities."

(5) The definition of Anti-Semitism, together with the accompanying illustrative examples, be used to guide the Council in the delivery of its equalities duties in relevant circumstances.

On being put to the vote the motion was carried (forty eight voted for, none voted against and one abstained from voting).

A named vote having been requested pursuant to Council Procedure Rule 15(2) the voting was as follows:-

FOR: Councillors Arnold, Barber, Barlow, Barton, Bourne, Buston, Chapman, Chuah, Coleman, Crow, Davidson, Davies, Dundas, Elliott, Ellis, Flores, Fox, Goss, Harris, Hayter, Hazell, Higgins, Hogg, Jarvis, Jowers, King, Laws, Liddy, Lilley, Lissimore, Loveland, Luxford Vaughan, F. Maclean, J. Maclean, Moore, B. Oxford, G. Oxford, P. Oxford, Pearson, Scordis, Scott-Boutell, Warnes, Willetts, Wood, J Young, T. Young, the Mayor (Chillingworth) and the Deputy Mayor (Cope).

AGAINST: None

ABSTAINED FROM VOTING: Councillor Whitehead

285 **Breaking Point**

John Akker addressed Council pursuant to the provisions of Council Procedure Rule 6(5) and urged Council to concentrate on what united them rather than what divided them and not to consider the motion in a party political manner. Residents believed that there was an emergency situation in respect of Council services. There had been unprecedented cuts in public services. For example the school in Mersea had shortfalls in equipment and staff, with the effect that it did not meet the aspirations of pupils and parents. Council should take account of the recent report by the Institute of Fiscal Studies which showed that most government departments had suffered real cuts in funding for years to come. Council was urged to consider a joint resolution supported by all groups setting out what action the Council would take to deal with this situation. It should take into account the new funding formulas which would have such a devastating impact on public services in the UK.

Mark Goacher addressed Council pursuant to the provisions of Council Procedure Rule 6(5) to support the motion and echoed the comments of Mr Akker. All residents were affected by the reduction in central government funding. By 2020 a high percentage of Councils would not receive any core funding, and the impact of this on local government services had been highlighted by the Conservative Chairman of the Local Government Association. It affected Councils of all political persuasions. The National Audit Office had estimated that one million residents were missing out on social care to which they were entitled.

It was proposed by Councillor T. Young that:-

“This Council notes that many council budgets are now at Breaking Point. Austerity has caused huge damage to communities up and down the UK, with devastating effects on key public services that protect the most defenceless in society – children at risk, disabled adults and vulnerable older people – and the services we all rely on, like clean streets, libraries, and children’s centres;

- Conservative cuts mean councils have lost 60p out of every £1 that the last Labour Government was spending on local government in 2010;
- Councils had to spend an extra £800m last year to meet the demand on vital services to protect children;
- With an aging population and growing demand adult social care faces a gap of £3.5 billion – with only 14% of council workers now confident that vulnerable local residents are safe and cared for
- Government cuts have seen over 500 children’s centres and 475 libraries close, potholes are left unfilled, and 80% of councils workers now say have no confidence in the future of local services
- Northamptonshire County Council has already gone bust due to Conservative incompetence at both national and local level, and more councils are predicted to

collapse without immediate emergency funding

- Councils now face a further funding gap of £7.8 billion by 2025 just to keep services 'standing still' and meeting additional demand. Even Lord Gary Porter, the Conservative Chair of the Local Government Association, has said 'Councils can no longer be expected to run our vital local services on a shoestring'

This Council condemns Chief Secretary to the Treasury Liz Truss for stating on BBC Newsnight on 1st October 2018 that the government is "not making cuts to local authorities", when all independent assessments of government spending show that this is entirely false; and that this Council further notes that Prime Minister Theresa May has also claimed that "austerity is over" despite planning a further £1.3bn of cuts to council budgets over the next year;

This Council agrees with the aims of the 'Breaking Point' petition signed by Labour councillors across the country, in calling for the Prime Minister and Chancellor to truly end austerity in local government by:

- Using the Budget to reverse next years planned £1.3bn cut to council budgets;
- Immediately investing £2bn in children's services and £2bn in adult social care to stop these vital emergency services from collapsing;
- Pledging to use the Spending Review to restore council funding to 2010 levels over the next four years.

This Council resolves to:

- Support the 'Breaking Point' campaign, recognising the devastating impact that austerity has had on our local community
- Ask the Leader of the Council to write to the Chancellor of the Exchequer, the Prime Minister, and the Secretary of State for Housing, Communities and Local Government setting out the funding pressures faced by our local council, and calling on the Government to truly end austerity in local government."

A main amendment was proposed by Councillor King as that the motion be approved and adopted subject to the following amendments:-

- In the first paragraph, after the words "devastating effects" the deletion of the word "on" and the insertion of the words "for many Councils, their residents and the";
- In the third paragraph the deletion of the word "Labour";
- In the fourth paragraph, first bullet point, the deletion of the word "devastating" and its replacement with following words "huge impact austerity cuts have had on Colchester Borough Council's budgets and the wider";

Councillor T. Young indicated that the main amendment was accepted and the motion was deemed amended accordingly.

On being put to the vote the motion was approved and adopted (twenty four in favour, twenty three against and two abstained from voting).

286 Questions to Cabinet Members and Chairmen pursuant to Council Procedure Rule 10

Questioner	Subject	Response
Pre-notified questions		
Councillor Barber	Can the Portfolio Holder for Resources inform Council of the latest update for the Axial Way Pumping Station and overall Northern Gateway Project? Please can you state what the anticipated budget for both originally agreed was, what is now the current expected budget for both, in particular the Axial Way Pumping Station, and where the money for any over-budget spends will come from?	Councillor King, Portfolio Holder for Resources, explained that Axial Way pumping station was a key part of the drainage strategy at Northern Gateway. Once works commenced, the conditions underground proved more challenging than had been anticipated, including more water and a huge block of concrete. The scope and costs of the work therefore had to increase from £425,000 to approximately £900,000. It was appreciated that this was a significant increase but needed to be seen as part and parcel of project management. Some capital projects did exceed the initial estimate. A number of others, such as Amphora 1, had come in substantially under budget. Cabinet continued to monitor risk carefully and to guard against optimism bias. He been provided

		<p>with reassurance from officers that due diligence had been undertaken and that the contractors claims had been rigorously assessed. Independent engineering advice had been sought test boreholes had been drilled. The settlement with the contractor was well below the value of the initial claim. Officers had considered whether there was any lessons to be learnt, including whether more test boreholes should be dug, but there was a balance to be struck between due diligence and the resulting time and cost. Additional funding had been made available and this shortfall would be met by reallocation of funds within the Northern Gateway project.</p> <p>Continuing progress was being made on the wider Northern Gateway project. A fresh review of the whole programme was currently being undertaken and an update would be provided to Cabinet soon. The vision for Northern Gateway remain unchanged: to provide a new high quality regional centre space to help visitors and local</p>
--	--	--

		residents lead healthy and active lifestyles.
Councillor Chapman	Could the Portfolio Holder explain how the recent review of the way our Zone Teams operate will improve the collection of litter on the A12? I receive frequent complaints about the state of this major East Anglian thoroughfare, which, for part of its journey, crosses the Dedham Vale Area of Outstanding Natural Beauty a national designation that I spend so much of my time, as a representative of this Council, sustaining.	Councillor Goss, Portfolio Holder for Waste, Environment and Transportation, explained that the Zones Review had been town centre centric, but it had also looked at issues relating to the A12. The A12 had been included in the new 7 day rota, and parts of the A12 would be litter picked one day per week. It needed to be borne in mind that this was dangerous work and some parts were unreachable. It was ultimately the responsibility of Highways England to provide funding but this had been cut many years ago.
Councillor Cope	Can there be an explanation please for the great delay in the opening of the child's play area adjacent to Cavalry Road and Circular Road North in the Quadriga estate behind Garland Road? It has now been several years since the estate opened; many representation have been made by councillors for the necessary action to be taken but the result has been disappointing. Can the official side give an estimate of the time when the play area will be opened? Would	Councillor Lilley, Portfolio Holder for Planning, Public Safety and Licensing responded. The chain of events relating to this development demonstrated why infrastructure should be put in first, as was planned with garden communities. The play equipment had been installed 7 years ago but not completed, and the developer was not obliged to hand it to the Council until 75% of the units had been occupied. Other infrastructure was awaiting

	<p>the Portfolio Holder consider imposing longstop dates on developers to ensure the delivery of section 106 obligations?</p>	<p>completion also, such as the adoption of the roads. Legal advice was being sought from officers to see if the developers could be compelled to finish the necessary works or to hand it over to the Council. He would look into the issue of longstop dates.</p>
<p>Councillor Barton</p>	<p>The recent Streetweek in St Michael's was a welcome initiative and a successful way to engage with residents. Can the Portfolio Holder for Planning, Public Safety and Licensing give us a flavour of the event and outline some of the outcomes?</p>	<p>Councillor Lilley, Portfolio Holder for Planning, Public Safety and Licensing explained that a Streetweek was a multi-agency initiative involving the Zones Teams, Neighbourhood Watch, the Army and the Police, aimed at tackling issues such as fear of crime and anti-social behaviour. The army had requested this particular Streetweek and it had been led by the police who had done an excellent job. The initiative would be rolled out in other areas. Detailed statistics would be circulated when available.</p>
<p>Councillor Warnes</p>	<p>Given the Government's sudden turning point in housing policy and the promised new borrowing freedoms recently announced by the new disciples from Westminster, can the Portfolio holder tell me if there now exists a real opportunity to provide truly affordable housing at scale here in Colchester for those</p>	<p>Councillor Bourne, Portfolio Holder for Housing and Communities, explained that the Council had built 34 houses on under used garage sites, but that the 1% rent reduction had removed the borrowing headroom on the Housing Revenue Account. The aspiration to build more house remained. The</p>

	<p>currently locked out of the local housing market. Furthermore given that the Local Government Association is committed to campaigning to ensure that Councils such as Colchester can borrow to build free from restrictions and that recent history has shown us that past Government promises of a new Nirvana can be stymied by the dead hand of Whitehall, would she be willing to request officers take a serious look at working cooperatively with other Councils to secure loans through Municipal Bonds as a low-cost alternative source of funding so we are not solely dependent upon the public works loan board or commercial alternatives.</p>	<p>Council had bid to the Department of Housing, Communities and Local Government for funding to build low rent housing. Now that the borrowing cap had been abolished, the Council would consider all options available in line with the Treasury Management policy in order to borrow to finance Council house building, and would look to build on a large scale again. Every home the Council built was life changing for the family who lived there. Cabinet was also looking at alternative models of funding, such as municipal bonds, and a report would be brought forward shortly.</p>
Councillor Whitehead	<p>Could an update be provided on the proposals to close the Post Office on Head Street and move the Post Office services to WH Smiths?</p>	<p>Councillor T. Young, Portfolio Holder for Business and Culture expressed his concern about the proposal and hoped all groups would oppose them. A similar proposal had been implemented in Chelmsford. The level of service that was currently provided would not be able to be replicated in WH Smiths. Colchester Post Office was well used and a number of residents relied upon it. There would be a six week consultation and</p>

		<p>he hoped Council would speak with a unified voice on the issue. The Chief Executive had already written to express the Council's view and to ask for an urgent meeting. Councillors should also lobby the MP for Colchester on the issue.</p>
Councillor Laws	<p>Would the Council be able to obtain a giant poppy to display outside the Town Hall, similar to the one on display outside Ipswich Town Hall?</p>	<p>Councillor T. Young, Portfolio Holder for Business and Culture, indicated that he would look into it.</p>
Councillor Laws	<p>Would the Council consider making it mandatory for premises selling food to display hygiene labels in windows?</p>	<p>Councillor Bourne Portfolio Holder for Housing and Communities, explained that there was no national legislation requiring the display of food hygiene certificates in particular places. The Council provided considerable training and advice on food hygiene issues and encouraged the prominent display of food hygiene certificates. She would look to see if there was any local instrument that could be used to force the display of food hygiene certificates.</p>
Councillor Laws	<p>Could the Portfolio Holder confirm that Colchester would seek to benefit from the £675 million announced in the budget to help High Streets?</p>	<p>Councillor Barlow, Portfolio Holder for Commercial Services indicated that if such funding sources became available the</p>

		Council would look into them.
Councillor Fox	Could the Portfolio Holder for Planning, Public Safety and Licensing provide information about the work by the Council underway to increase the number of police officers in Colchester?	Councillor Lilley, Portfolio Holder for Planning, Public Safety and Licensing, explained that there was an Action Plan known as Team Ten, which had already had a significant impact. It had looked at a particular hotspots such as the Dutch Quarter and the Priory. The police and Zones teams working well together, but some issues remained. Licensing officers were also looking at licensed premises to ensure that were selling alcohol responsibly.
Councillor Higgins	Could the Portfolio Holder for Housing and Communities provide information about the rough sleeper initiative?	Councillor Bourne, Portfolio Holder for Housing and Communities. Two successful bids had been made to government and nearly £400,000 had been received towards rough sleeper initiatives over an 18 month period. The funding was towards a particular initiative, Housing First, in which a number of rough sleepers were housed with 24 hour support. This helped address the complex issues which many rough sleepers had. It was expensive and resource intensive, and was subject to close monitoring from the Department of

		communities, Housing and Local Government.
Councillor Liddy	Would the Portfolio Holder for Waste, Sustainability and Transportation agree that the reconfiguration of bus services had been to the detriment of passengers, especially those travelling to Wivenhoe and Greenstead?	Councillor Goss, Portfolio Holder for Waste, Environment and Transportation, explained that he had raised this issue with the bus companies and with Essex County Council, and had received conflicting accounts as to who was responsible for these changes. He would look into the matter further, but in a sense it was too late as the changes had now been introduced. The communications around the changes had not customer centric.
Councillor Barber	Would the Portfolio Holder for Business and Culture support a move towards four yearly elections?	Councillor T. Young, Portfolio Holder for Business and Culture, explained that the Labour Group had discussed this and indicated that it wish to stay with a system of election by thirds. However, the issue would be discussed again soon.
Councillor Barber	Would the Portfolio Holder for Housing and Communities provide further information about the Housing First policy?	Councillor Bourne, Portfolio Holder for Housing and Communities, indicated that that she would be willing to attend a meeting of the Conservative group to speak about it.
Councillor Scordis	Would the Portfolio Holder for Waste, Environment and Transportation be able to	Councillor Goss, Portfolio Holder for Waste, Environment and

	<p>meet with Essex highways to see what could be done to increase the speed of the works on the Ipswich Road roundabout and to promote more sustainable methods of transport?</p>	<p>Transportation, explained that he had raised this matter with the Essex County Council Portfolio Holder. A number of complaints had been raised: the impact on businesses from the congestion, disabled access and access through the works for emergency vehicles. The bus companies were also concerned about the impact on their reliability. He was aware of considerable public concern and a petition was in circulation which had already gained 2000 signatures. The terms of the contract did not provide for 24 hour work on the site. Whilst the scheme would deliver real benefits, work did need to speed up and he would continue to press for this in discussions with Essex County Council.</p>
<p>Councillor Cope</p>	<p>Could the Chairman of the Heritage and Tourism Task and Finish Group give an update on its work?</p>	<p>Councillor Laws, Chairman of the Heritage and Tourism Task and Finish Group, explained that the Group had held its first meeting. Some of the issues that it had identified to look at more details were lighting, signage, the future of Gosbecks and the provision of future events. It would be meeting again on 20 November with Visit</p>

		Colchester and BID invited to attend.
Councillor Chuah	Could the Portfolio Holder for Waste, Environment and Transportation, also take up the impact of the Ipswich Road roadworks on St Johns Road with Essex County Council. The road had a 7 tonne limit but heavy traffic was using the road and there particular concern about the impact of this on the bridge.	Councillor Goss, Portfolio Holder for Waste, Environment and Transportation, indicated that he would raise these concerns with Essex County Council.

287 **Schedule of Portfolio Decisions**

RESOLVED that the schedule of Portfolio Holder decisions covering the period 30 June 2018 - 18 October 2018 be noted.

Extract from the draft minutes of the Cabinet meeting on 21 November 2018

308. Colchester Northern Gateway Sports Park – Appointment of Contractor

The Assistant Director Policy and Corporate submitted a report a copy of which had been circulated to each Member.

Councillor Barlow, Portfolio Holder for Commercial Services, stressed that these proposals were a key step in the delivery of this major project. It would deliver a 76 acre site and would cost in the region of £20million. It would contribute to a number of council priorities. He thanked officers and the previous portfolio holder, Annie Feltham, and it was a testament to their work that it had reached this stage major controversy. Work had begun onsite. The Council would retain control of the sports hub which would ensure the site was run for the benefit of the residents of Colchester.

RESOLVED that:-

- (a) The decision on part B of the agenda for this meeting paper to appoint the contractor to deliver the main sports park contract be noted.
- (b) The review of the scheme costs, revised funding decision and financial details of the scheme and associated decisions as set out in the Assistant Director's report and the report on part B of the agenda be noted.
- (c) The revised scheme cost be approved and to *RECOMMEND TO COUNCIL* its inclusion at this level in the capital programme.
- (d) The release of the Section 106 funds received as set out in Assistant Director's report be approved and that the remaining expected sums be used for this project.
- (e) The long term borrowing of this project of £2.827m be agreed and this sum be included within the Treasury Management Strategy and Prudential Indicators.
- (f) The potential revenue implications of this scheme arising from the borrowing and cashflow position be noted and these be reflected in the 2019/20 budget and Medium Term Financial Forecast.

REASONS

This is an important milestone in the delivery of the Northern Gateway Sports Hub and is a major step in creating a destination of regional significance for sport. The appointment of contractor and acceptance of the revised budget requirement and

funding package will enable the 76 acre sports hub project to progress and allow the buildings, civils and infrastructure elements of the project to commence.

The advance pitch works contract for the grass pitches was let ahead of the main contract to ensure they were completed and allowed enough growing time. These have now been completed three weeks ahead of schedule.

This contract will see the buildings, the civils, the cycle track and all remaining works to the site completed, as well as improvements to the highway.

To appoint a contractor who can deliver a high quality scheme within the defined programme.

As the scheme has progressed through the design stages and has achieved planning consent the budget requirement has increased, and the funding package has changed, these are set out in the financial section of the Assistant Director's report.

ALTERNATIVE OPTIONS

Not to appoint a contractor; however, this would mean the project could not be delivered within the required timeframe and the project would have to be re-tendered, meaning a delay of at least 6 months. By not appointing a contractor at this time the wider Northern Gateway project including moving the Rugby Club from Mill Road would be delayed and a number of other external funding opportunities and linked projects, including substantial forecast capital receipts could be put at risk.

Not to accept the revised budget requirement and funding package; however, this would also mean that the project as in its current form could not be delivered within the current programme. In addition a new scheme and a new funding strategy would have to be devised.

Extract from the draft minutes of the Cabinet meeting of 21 November 2018

306. Local Council Tax Scheme 2019-20

The Assistant Director Customers submitted a report a copy of which had been circulated to each Member together with minute 184 of the Scrutiny Panel meeting of 16 October 2018.

Councillor King, Portfolio Holder for Resources, introduced the proposals. The Local Council Tax Support Scheme provided support to the most vulnerable residents of the borough. It was one of the most generous schemes in the county. The scheme was largely unchanged from the previous year, and would provide some stability in benefit provisions whilst Universal Credit was introduced. The scheme would be reviewed again for the following financial year when the impact of Universal Credit would be taken into consideration.

RESOLVED that the Local Council Tax Support Scheme for 2019-2020 be agreed

RECOMMENDED TO COUNCIL that the Local Council Tax Scheme 2019-20 be adopted.

REASONS

Legislation requires that the scheme, effective from 1 April 2019, is agreed by March 2019.

The only amendments from the current scheme being the prescribed regulations and mandated national legislative amendments. It is recommended that current working age entitlement is maintained for the fiscal year effective from 1 April 2019.

ALTERNATIVE OPTIONS

Changes could be made to the scheme. However stability to the scheme is being recommended due to the introduction of Universal Credit from 4 July 2018. This will provide residents with some consistency within the context of a fundamental change to other forms of benefit and support.

Stability of scheme entitlement will also allow for a review of banded income schemes, and other alternatives ahead of the fiscal year 2020/21

A copy of the full LCTS scheme can be found by clicking [here](#) or on the Council website by following the pathway www.colchester.gov.uk / Our Council / Councillors and Meetings / Agendas and minutes / Council / 06 December 2018.

Extract from the draft minutes of the Cabinet meeting on 21 November 2018

307. Officer Pay Policy Statement 2019-20

The Assistant Director Policy and Corporate submitted a report a copy of which had been circulated to each Member.

Councillor King, Portfolio Holder for Resources, introduced the report. This provided transparency to residents and staff about the Council's pay structure. It also demonstrated the Council's commitment to good working practices, such as apprenticeships and the payment of the Living Wage to staff and contractors.

RECOMMENDED TO COUNCIL that the Officer Pay Policy Statement 2019/20 be approved and adopted.

REASONS

The Localism Act requires "authorities to prepare, approve and publish pay policy statements articulating their policies towards a range of issues relating to the pay of its workforce, which must be approved by full Council annually. An authority's pay policy statement must be approved by a resolution of that authority before it comes into force".

ALTERNATIVE OPTIONS

The only alternative would be to not recommend the approval of the Pay Policy Statement, but that would be contrary to the requirements of the Localism Act.

Extract from the minutes of the Licensing Committee meeting on 14 November 2018

72. Taxi Policy

Have Your Say!

Mr Naish, Private Hire Driver, spoke to the Committee concerning the requirement in the new Hackney Carriage and Private Hire Licensing Policy for an annual medical once a driver reached the age of 65. Mr Naish questioned why it was necessary when the DVLA do not request any renewal of licence until the age of 70. Mr Naish asked why there was age discrimination towards taxi drivers when members of staff from other areas of work are not asked to complete a medical examination to carry on working.

The Committee sympathised with Mr Naish but acknowledged that, as Mr Ruder had pointed out, the annual medical certification for a Private/Hire Hackney Carriage driver from the age of 65 is a requirement of the Group 2 UK medical standards for driver licensing.

Mr Isbill, Chairman of the Colchester Hackney Carriage Association, addressed the Committee with regard to investigating quotes for CCTV systems that met the specifications currently required by the Policy. Mr Isbill informed the Committee that the cost was £1000 - £1200 which he felt was a substantial amount. The Committee thanked Mr Isbill for his assistance with regard to the quotes but would not comment at the moment as CCTV would be discussed at a future Committee date.

The Committee then considered a report from the Assistant Director Communities concerning the Taxi Policy consultation responses and were asked to consider those received following a further period of consultation on the Policy.

Mr Ruder, Licensing, Food and Safety Manager informed the Committee that, due to the outcome of the consultation, officers were asking the Committee to approve the

necessary changes to the Taxi Policy but not to include, at this stage, provisions relating to CCTV. He informed the Committee that officers had been working very closely with trade members and a number of important issues had been raised which required further detailed consideration and work. Amongst the issues raised were the ownership and storage of the data and cost of the equipment.

The Committee thanked officers and the Hackney Carriage/ Private Hire drivers, who had responded to the consultation, for all their hard work and co-operation.

RESOLVED –

- (i) That the Policy, excluding Appendix 1, be recommended to full Council for adoption and implementation with effect from 1 January 2019.
- (ii) That full Council be recommended to delegate to the Licensing Committee authority to determine the provisions in relation to the installation of CCTV in hackney carriage and private hire vehicles.

A copy of the full Hackney Carriage and Private Hire Licensing Policy can be found by clicking [here](#) or on the Council website by following the pathway www.colchester.gov.uk / Our Council / Councillors and Meetings / Agendas and minutes / Council / 06 December 2018.

Extract from the minutes of the Licensing Committee meeting on 14 November 2018

73. Gambling Policy

The Committee considered a report from Mr Ruder, Licensing, Food & Safety Manager, with regard to approving the Gambling Policy following the end of a consultation period.

Mr Ruder informed the Committee that no representations had been made within the consultation period and the Committee were therefore being asked to agree the draft Policy and propose its adoption to full Council on 6 December 2018.

RESOLVED that the draft Policy be agreed and recommended to full Council for adoption and implementation with effect from 31 January 2019.

Extract from the minutes of the Licensing Committee meeting on 14 November 2018

74. Pavement Permits (Street Restaurant, Café and Bar Furniture)

The Committee considered a report by Mr Ruder, Licensing and Food Safety Manager, with regard to the introduction a permit procedure for the safe layout of movable street furniture in the town. It was hoped to encourage a café culture in relation to bars, pubs, restaurants and cafes.

Mr Ruder informed the Committee that the aim was to use a permit and conditions system to ensure ease of access, safety and improve visual impact in an efficient, fair and controlled way. The proposed policy was intended to help businesses understand where street cafes might be encouraged, where they would not be permitted, and the specific requirements in relation to their licensing.

In response to questions from the Committee Mr Ruder informed them that the Policy would initially start in the town centre but could become Borough wide later. It was also explained that the pricing table was based on square meterage of the outside area and for businesses that renew it would be a lower amount. The Committee were informed that there was an error in section 8 it should read 'The Council will require that all glasses, crockery and other ancillary items used in the permitted area, are made of a toughened material when the area is used after 6.00pm'

In reply to a question about beggars Mr Ruder informed the Committee that he would contact the Community Safety Team and raise the issue with them.

RESOLVED that the draft Policy be agreed and recommended to full Council for adoption and implementation with effect from 1 January 2019.

Extract from the draft minutes of the meeting of the Governance and Audit Committee meeting of 13 November 2018

134. Review of the Council's Ethical Governance Policies

Andrew Weavers, Monitoring Officer, introduced the review of the Council's Ethical Governance Policies report. The report requests that the Committee recommend to Full Council that it adopts the statement of intent in relation to ethical governance, and that the ethical policies are reviewed and recommended to Full Council for inclusion in the Council's Policy Framework.

Andrew Weavers stated that the policies were last reviewed at the October 2017 meeting of the Governance and Audit Committee. Andrew Weavers provided the Committee with a summary of the policies included in the report, highlighting those that had been reviewed and remain unchanged as well as those that had been reviewed and updated. Andrew Weavers stated that the Acceptable Use Policy had been strengthened due to the Data Protection Act 2018. In addition, the Income and Debt Management Policy had been amended due to legislative changes, which reduce the costs of summons by £2.50.

A member of the Committee stated that they felt that the policies were reviewed thoroughly at the meeting last year and that the updates mainly reflected where legislation had changed. The Committee member also welcomed the introduction of a table on the number of occasions where the policies had been used, even though they hadn't been used during the financial year.

A further question was asked regarding the Data Protection Policy and whether the information controllers list was a public document and whether reminders were sent out to Councillors when renewals were required. Andrew Weavers confirmed that Colchester Borough Council hold a list of data controllers and that the same information would be available from the Information Commissioners Office. With regard to renewals Colchester Borough Council pays for Councillors to be registered as data controllers for the purposes of being a councillor and therefore this would be managed by Officers, however if Councillors register for political or other purposes, they would need to manage this themselves.

Councillor King, Portfolio Holder for Resources attended the meeting and highlighted the quality of the work in reviewing the policies and informed the Committee that he had held discussions with Andrew Weavers in this report prior to the meeting.

Another member of the Committee highlighted the training activities that took place including one for the General Data Protection Regulations and another for social media.

RESOLVED;

- a) To RECOMMEND to FULL COUNCIL the adoption of the statement of intent in relation to ethical governance.

b) To RECOMMEND to FULL COUNCIL the following revised policies for inclusion in the Council's Policy Framework –

- Anti-Fraud and Corruption
- Whistleblowing
- Anti-Money Laundering
- Covert Surveillance
- Information Security
- Data Protection
- Acceptable Use
- Income and Debt Management

Extract from the draft minutes of the Governance and Audit Committee meeting of 13 November 2018

136. Review of Local Code of Corporate Governance

Hayley McGrath, Corporate Governance Manager, introduced the Review of Local Code of Corporate Governance report. The report requests that the updated Local Code of Corporate Governance for 2018/19 be reviewed and recommended to Full Council for inclusion in the Council's Policy Framework.

Hayley McGrath provided the Committee with a summary of the report and highlighted that there are no major changes to the document, however the Local Code has been updated to refer to the new Strategic Plan and the Council's commercial company structure.

A member of the Committee asked for further information on principle two of the code of conduct, which highlights that members and officers are working to a common purpose. Hayley McGrath confirmed that the second principle of the code of conduct relates to delivering the first principle of the code. Other Committee members highlighted the development of the Strategic Plan and policies.

RESOLVED;

- a) That the Local Code of Corporate Governance for 2018/19 be reviewed.
- b) To RECOMMEND to FULL COUNCIL that the Local Code of Corporate Governance be approved for inclusion in the Council's Policy Framework.

**Record of Decisions taken under Scheme of Delegation to Cabinet Members
20 October 2018 – 21 November 2018**

Portfolio – Business and Culture					
Date	Number	Report Title	Author	Decision	Result
20 November 2018	BUS-004-18	Response to the Government's consultation paper "Implementing reforms to the leasehold system".	Christopher Downes	To agree Colchester Borough Council's response to the "Implementing reforms to the leasehold system" consultation paper as set out in the Portfolio Holder report.	Call in period expires 27 November 2018

Portfolio – Commercial Services					
Date	Number	Report Title	Author	Decision	Result
8 November 2018	COM-002-18	Northern Gateway Sports Hub - Professional Team Fees	Holly Brett	To agree to the professional services team fees as set out in the report	Agreed 15 November 2018

Portfolio – Customers					
Date	Number	Report Title	Author	Decision	Result
None in this period					

Portfolio – Housing and Communities					
Date	Number	Report Title	Author	Decision	Result

Agenda item 10

**Record of Decisions taken under Scheme of Delegation to Cabinet Members
20 October 2018 – 21 November 2018**

2 November 2018	HOU-006-18	Approval of Housing Repairs and Rechargeable Repairs Policy	Geoff Beales	To approve the Housing Repairs and Rechargeable Repairs Policy	Agreed 9 November 2018
7 November 2018	HOU007-18	Response to the Government's consultation paper "A new deal for social housing"	Tina Hinson	To agree a response to the government's consultation paper "A New Deal for Social Housing"	Agreed 14 November 2018

Portfolio – Planning, Public Safety and Licensing					
Date	Number	Report Title	Author	Decision	Result
None in this period					

Date	Number	Report Title	Author	Decision	Result
None in this period					

Portfolio – Resources					
Date	Number	Report Title	Author	Decision	Result
None in this period					

Date	Number	Report Title	Author	Decision	Result
None in this period					

Portfolio – Strategy					
Date	Number	Report Title	Author	Decision	Result
None in this period					

Date	Number	Report Title	Author	Decision	Result
None in this period					

Portfolio – Waste, Environment and Transportation					
Date	Number	Report Title	Author	Decision	Result
None in this period					

Date	Number	Report Title	Author	Decision	Result
None in this period					

Report of	Assistant Director of Policy & Corporate	Author	Holly Brett ☎ 508830
Title	Colchester Northern Gateway Sports Park- Appointment of Contractor		
Wards affected	Mile End, Highwoods, Rural North		

1. Executive Summary

- 1.1 This report outlines the decision to be taken in the confidential part of this agenda regarding the appointment of the contractor to deliver the main building contract for the Northern Gateway Sports Hub following the OJEU compliant tender process.
- 1.2 This report also provides an update for Cabinet on the full financial and funding position of the project and asks members to agree the decisions required in respect of the additional cost and borrowing in respect of this project.

2. Recommended Decision

- 2.1 To note the decision on confidential part B of this paper to appoint the contractor to deliver the main sports park contract.
- 2.2 To note the review of the scheme costs, revised funding decision and financial details of the scheme and associated decisions as set out in this report and the confidential part B of this agenda.
- 2.3. To approve the revised scheme cost and recommend to Full Council the inclusion at this level in the capital programme.
- 2.4. Agree to release of the Section 106 funds received as set out in this report and that the remaining expected sums will be used for this project.
- 2.5. Agree to the long term borrowing of this project of £2.827m and that this sum is included within the Treasury Management Strategy and Prudential Indicators.
- 2.6. Note the potential revenue implications of this scheme arising from the borrowing and cashflow position and agree that these are reflected in the 2019/20 budget and Medium Term Financial Forecast.

3. Reason for Recommended Decision

- 3.1 This is an important milestone in the delivery of the Northern Gateway Sports Hub and is a major step in creating a destination of regional significance for sport. The appointment of contractor and acceptance of the revised budget requirement and funding package will enable the 76 acre sports hub project to progress and allow the buildings, civils and infrastructure elements of the project to commence.

- 3.2 The advance pitch works contract for the grass pitches was let ahead of the main contract to ensure they were completed and allowed enough growing time. These have now been completed three weeks ahead of schedule.
- 3.3 This contract will see the buildings, the civils, the cycle track and all remaining works to the site completed, as well as improvements to the highway.
- 3.4 To appoint a contractor who can deliver a high quality scheme within the defined programme.
- 3.5 As the scheme has progressed through the design stages and has achieved planning consent the budget requirement has increased, and the funding package has changed, these are set out in the financial section of this report.

4. Alternative Options

- 4.1 Not to appoint a contractor; however, this would mean the project could not be delivered within the required timeframe and the project would have to be re-tendered, meaning a delay of at least 6 months. By not appointing a contractor at this time the wider Northern Gateway project including moving the Rugby Club from Mill Road would be delayed and a number of other external funding opportunities and linked projects, including substantial forecast capital receipts could be put at risk.
- 4.2 Not to accept the revised budget requirement and funding package; however, this would also mean that the project as in its current form could not be delivered within the current programme. In addition a new scheme and a new funding strategy would have to be devised.

5. Background Information

- 5.1 Northern Gateway Sports Hub will see a 76-acre site developed by the Council to deliver high quality facilities for a wide range of sports users to enjoy such as rugby, cycling, badminton. A new sports centre and rugby club house will also be built at the site to facilitate the existing rugby club users from Mill Road and the Council will operate the sports centre. There will be opportunity for informal recreation as well as organised sports with grassed areas for informal play, walking, cycling and horse riding trails and a cycling learn to ride centre.
- 5.2 During the consultation, design and development stages of this project there has been considerable excitement that Colchester Borough Council is investing in a facility that will enhance Colchester's reputation for Sport and Leisure facilities across a wider regional catchment. A range of local, regional and national sporting organisations have been watching progress closely and are keen to be involved in making the project a success.
- 5.3 As well as relocating existing clubs in Rugby Union, Rugby League and Archery the Northern Gateway Sports Park gives a home in North Essex for Cricket supported by Essex County Cricket Club and a Regional home for cycling supported by British Cycling. Strong relationships have been developed with partners from these sporting bodies who are committed to support such a holistic approach to providing sports opportunities for residents in our borough for all levels of participation and attract visitors to the borough with a Sports Park of regional significance.
- 5.4 By CBC operating the Sports Park it can offer inclusivity and access to all. This is especially important against a background of growing levels of obesity and inactivity especially amongst children and the recognition that as a nation we need to increase levels of participation and activity across all members of our communities; it is exciting to see Colchester Borough Council's strategic vision being brought to life through the significant investment in Northern Gateway Sports Park.
- 5.5 The development is ambitious and a key part of the wider Northern Gateway growth location plans, but it continues to be challenging in programme terms due to the need to move the rugby club by Autumn 2019 to facilitate other planned developments and projects at the existing Mill Road site. By delivering the advance pitch works as early as possible, the risks associated with the growing seasons for the pitches have been reduced and a high-quality playing surface will be ensured. This means that the contractor for the main works can commence with the site infrastructure, buildings, civils and other works.
- 5.6 The intended programme of works means that the new facility will be opening in January 2020. This is a challenging programme but one that the professional team and contractor are committed to delivering.

Tender Process

- 5.7 Following advice from our consultants, Gleeds, the tender was advertised through the Suffolk Construction Framework, which is managed by Concertus. This gave us access to four main contractors who would be able to bid for a contract of this size

The confidential part B of this report sets out the tender returns received and the evaluation and analysis process and outcome

Tenders were issued on the 13th August 2018 and returned on the 26th October 2018. After an initial mobilisation period the contractor will start on site in January 2019

6. Equality, Diversity and Human Rights implications

- 6.1 None identified at this stage.

7. Strategic Plan References

- 7.1 Growth: Help make sure Colchester is a welcoming place for all residents and visitors.

Opportunity: Promote and enhance Colchester borough's heritage and visitor attractions to increase visitor numbers and to support job creation.

Promote initiatives to help residents live healthier lives.

Wellbeing: Help residents adopt healthier lifestyles by enabling the provision of excellent leisure facilities and beautiful green spaces, countryside and beaches.

8. Consultation

- 8.1 There has been full consultation on the sports hub project with residents, members and a range of national governing bodies for sport.

9. Publicity Considerations

- 9.1 The tender was publicised through the Suffolk Construction Framework portal.
- 9.2 Publicity will be undertaken once the contractor is appointed and work starts on site.
- 9.3 There has been strong interest in the project both locally and on a national level from sporting bodies.
- 9.4 A communications plan is developing to engage residents and stakeholders as we move forwards on the construction but also as we approach the opening of the scheme.

10. Financial implications

- 10.1 In August 2017, Cabinet approved the revised budget for the Sports Park project. This showed a total scheme cost of £24.1million which it was assumed would be funded through external funding, Council funding and, in principle, a level of Council borrowing. At this stage in the project certain estimates had to be made regarding the funding package.
- 10.2. As the scheme has progressed and achieved planning consent the budget requirement has increased and the budget required to deliver the scheme is now £25.38m. The reasons for the increase in required budget are:-
- Increased archaeological investigations and works required to site
 - Fixtures, fittings and equipment (FF&E) that is required to enable CBC to operate the scheme
 - Additional works required to the highway as a result of planning requirements
 - Inclusion of stakeholder items that will increase participation and income

- Tender returns above the pre tender cost estimate for the main works

10.3 The review of funding for this project is set out in detail on the confidential appendix. In summary the total forecast funding now totals £22.553m, leaving a borrowing requirement of £2.827m as summarised in the following table:-

Summary	£'000	%	
Capital receipts (incl. Housing Company dividend/ equity repayment)	16,600	65%	See details in confidential report
Sporting body contributions	500	2%	See details in confidential report
Section 106 funding	1,515	6%	See para 10.5
Government Funding	1,938	8%	HIF grant awarded
Use of New Homes Bonus	2,000	8%	Agreed by Cabinet
<i>Sub-total</i>	<i>22,553</i>	<i>89%</i>	
Gap / Long Term Borrowing Requirement	2,827	11%	
Total Funding	25,380	100%	

10.4. The revised forecast includes:-

- Revised capital receipt projections based on latest land sales and forecast housing company dividend / equity repayment
- Proposed use of Section 106 money identified to support sport and leisure in the area (see below)
- New grant contributions have been achieved, for example grant funding from the Housing Infrastructure Fund (HIF), and some grant applications have been withdrawn due to changing priorities of sports bodies meaning that the overall position has changed.

10.5. It was agreed in August 2017 that Section 106 money being received for use on sports and recreational facilities in the Northern Gateway area would be used for the sports project. An estimate of £1m was therefore included in the funding plan. To date there is £805k that has been received and not allocated and a further £710k is expected. The total is therefore higher than previously assumed which in part reflects indexation of sums due. Appendix A sets out the position and specific agreements. It is propose that the amounts received and forecast are now agreed to be used for this scheme.

10.6 In summary, the Council has previously agreed this project at a cost of £24.1m and as set out within this report the cost is now estimated to be £25.38m. The review of funding for this scheme shows that in total £22.553m is now forecast. This includes some funding which is certain, such as the agreed use of £2m of New Homes Bonus and proposals include use of c£1.5m of Section 106 funds.

10.7. Cabinet had previously agreed to borrow to support the delivery of this project and based on the review of funding received and forecast the long term borrowing requirement is c£2.8m.

- 10.8 The Prudential Code regulations allow an individual authority to determine its own borrowing limit. This means local improvements can be funded from borrowing without Government consent - provided the debt can be afforded. In considering its programme for capital investment, the Council is required within the Code to have regard to three overarching principles of:
- **affordability**, e.g. implications for Council Tax
 - **prudence** and **sustainability**, e.g. implications for external borrowing
- 10.9 Based on current long term borrowing rate of 2.6% and the cost of 50 years of MRP (Minimum Revenue Provision – the contribution towards repayment of debt) the revenue cost of borrowing is estimated at c£130kpa from 2020/21. This equates to an equivalent of £2.04 on Council Tax (at Band D). This cost can be considered alongside the operating profit forecast to be delivered by 2022/23 shown in the separate report on this agenda.
- 10.10. The revenue implications of this borrowing will need to be considered as part of the 2019/20 Budget and Medium Term Financial Forecast (MTFF) and also in the updated Treasury Management Strategy and Prudential Indicators.
- 10.11. The confidential appendix sets out an estimate of potential cashflow costs. As a rule, the Council does not budget for specific issues such as this as the overall budget will consider combined cashflow issues across all areas. However, it should be highlighted that given the risks attached to the timing of funding there is a potential revenue impact of the proposals within this report. This is mitigated in part from the SELEP loan funding of £2m secured. In addition in the report agreed by Cabinet in respect of the housing development proposals and sale of assets to Amphora Housing Limited set out that the revenue gain from on-lending will offset the temporary borrowing costs.
- 10.12. In considering the proposals within this report the Cabinet should have regard to the assumptions and risks set out. Some of the key issues relate to the assumptions in respect of the funding for this project, in particular the forecast capital receipts. The report sets out the current position in respect of these receipts showing that there remains a risk attached to the timetable and delivery of these. As such, Cabinet need to ensure that these risks are monitored and that the MTFF reflects this variable. This report should also be read alongside the assumptions
- 10.13. This report should be alongside the detailed information set out in the confidential part B report setting out the detailed project costs, funding and borrowing arrangements required to deliver the Sports Park.

11. Health, Wellbeing and Community Safety Implications

- 11.1 The scheme offers substantial health and wellbeing options to the Borough of Colchester

12. Health and Safety Implications

- 12.1 None identified at this stage

13. Risk Management Implications

- 13.1 The risks of not implementing the decision outlined in this report are that the contractors are not appointed, work is not started, and the programme for the Sports Hub is not met. This would also have the consequence of causing delays to the wider Northern Gateway programme specifically to the south. The consequence of these risks would be that the project timeline is jeopardised and or delayed meaning the project may not be

deliverable and the rugby club are not able to move to the new facility in Autumn 2019 and therefore this would also negatively impact the house building programme on the Mill Road site.

- 13.2 The other element of risk management is the negotiation of contract amendments at tender stage. The team along with specialist advice from Pinsent Masons have negotiated variations from the standard JCT terms. This is usual when negotiating contracts and is due to the sharing of risk, recent case law, contractor appetite for risk and the perceived risk or complexity of the project
- 13.3 The financial risk management implications are set out in the confidential part B of this report financial section of this report

Proposed use of Section 106 funds.

Site	Additional Info	Clause description	Received	Expected	Total
			£'000	£'000	£'000
Wyvern Farm (Stanway)	£225,000 already received. Allocated to Northern Gateway Sports Project.	Open Space, Sport and Recreational Facilities (Borough) Contribution	264	220	484
Axial Way	To be used either for play space in vicinity of site, recreational facilities on Mill Road or sports and recreational facilities North of A12 or sports and recreational facilities South of A12.	Open Space Contribution	296		296
Severalls Hospital	For sports and recreational facilities within the vicinity of Severalls Site.	Sports (Off Site) Sum	245	490	735
Total			805	710	1,515

Report of	Assistant Director - Customer	Author	Jason Granger ☎ 508824
Title	Local Council Tax Support 2019 - 2020		
Wards affected	All Wards		

1. Executive Summary

- 1.1 Colchester Borough Council's Local Council Tax Support scheme provides a reduction in Council Tax Liability for eligible residents.
- 1.2 Each year the scheme is reviewed and proposals are formulated to potentially update the scheme or to maintain the scheme in its existing form.
- 1.3 This report provides details of the proposal for the scheme, effective from 1 April 2019.
- 1.4 The only amendments from the current scheme are prescribed regulations and changes arising from national legislative amendments. In a changing Welfare Benefit landscape, such stability of entitlement for Local Council Tax Support will provide consistency to residents.

2. Recommended Decision

- 2.1 That the Local Council Tax Support Scheme for 2019-2020 be agreed and referred to Full Council for adoption.

3. Reason for Recommended Decision

- 3.1 Legislation requires that the scheme, effective from 1 April 2019, is agreed by March 2019.
- 3.2 The only amendments from the current scheme being the prescribed regulations and mandated national legislative amendments. It is recommended that current working age entitlement is maintained for the fiscal year effective from 1 April 2019.

4. Alternative Options

- 4.1 Changes could be made to the scheme. However stability to the scheme is being recommended due to the introduction of Universal Credit from 4 July 2018. This will provide residents with some consistency within the context of a fundamental change to other forms of benefit and support.
- 4.2 Stability of scheme entitlement will also allow for a review of banded income schemes, and other alternatives ahead of the fiscal year 2020/21.

5. Background Information

- 5.1 Local Council Tax Support currently helps 10,000 residents reduce their Council Tax bill. The value of Local Council Tax Support being granted in 2018/19 is estimated to be £8.4 million.
- 5.2 National regulations still require local schemes to 'protect' those residents of state pension credit age from any reduction to their level of support as a result of the localisation of the scheme.
- 5.3 Universal Credit full service was introduced to Colchester from 4 July 2018. As Universal Credit expands working age claims for Housing Benefit will begin to fall. However the administration of Local Council Tax Support will still rest with Colchester Borough Council and the level of Local Council Tax Support claims will not necessarily reduce.
- 5.4 In line with take-up of Universal Credit and the fall in Housing Benefit claims it is expected the Department for Work and Pensions grants covering in part the administrative cost of awarding Housing Benefit will also decrease. Therefore eroding a cost share principle and effectively increasing cost of administration within Local Council Tax Support. The grants provided to administer Local Council Tax Support will be more exposed and provide greater incentive for efficiencies to be driven in process.
- 5.5 Local Council Tax Support entitlement, for those of working age, is fundamentally consistent across all Local Authorities. Most schemes currently follow a means test principle based broadly on Housing Benefit legislation.

However greater focus is now being placed on developing alternatives which calculate entitlement based on broad income bands/grids. Such schemes can allow for greater alignment with the Universal Credit model and mitigate administration costs. In 2018/19 a small number of Local Authorities moved to an 'income banded' system. It is expected that this will increase in from 2019 and beyond as full service Universal Credit is fully rolled out.

- 5.6 Moving to a banded scheme ready for 2019/2020 would be a fundamental change. Our late transition to Universal Credit would align to a more measured approach and provides time for an in depth review of options, learning from other sites and our own review of the impacts of Universal Credit over the next fiscal year.
- 5.7 Universal Credit is also a significant shift in the welfare benefit landscape that provides a completely new model of entitlement to those claiming working age benefits. A fundamental change to entitlement within the Local Council Tax Support Scheme could further impact residents already managing a significant transition in financial support.

6. Equality, Diversity and Human Rights implications

- 6.1 No changes are being proposed to the current scheme other than prescribed/mandated national legislative amendments. Therefore the Equality Impact Assessment has not been revised.

7. Strategic Plan References

7.1 The Council's Strategic Plan sets out four themes one of which being:

'Wellbeing - Making Colchester an even better place to live and supporting those who need most help'.

One of the five priorities under the Wellbeing theme is to:

'Target support to the most disadvantaged residents and communities'.

7.2 Precepting authorities contributed additional funding to assist with the collection of Council Tax, recognising the additional number of residents we had to collect from and the potential difficulties we would experience collecting from residents who have either not previously paid Council Tax or who are paying an increased amount.

7.3 This additional money has helped fund a proactive intervention programme which provides a range of services including flexible payment plans, debt and back to work advice as well as administration an Exceptional Hardship fund.

8. Consultation

8.1 It is recommended that the current scheme is maintained therefore a consultation is not required.

9. Publicity Considerations

9.1 Local Council Tax Support is publicised via a website and we continue to provide information within our annual Council Tax bills and other mailings.

10. Financial implications

10.1 The Government funding for Local Council Tax Support was originally provided as a specific grant. The funding is no longer separately identified in Local Authority settlements yet forms part of the Revenue Support Grant and baseline retained business rates, together known as the Settlement Funding Allocation.

10.2 The Settlement Funding Allocation has reduced each year and therefore in effect the funding for Local Council Tax Support has also reduced. The cost of the scheme is influenced by both caseload and the Council Tax rate set. The cost of the scheme has therefore increased in recent years with further increases anticipated in 2019/2020. The 2019/20 Council budget forecast will assume:

- The assumed 3% reduction in Government funding
- The cost of the existing Local Council Tax Support caseload (less anticipated caseload reductions)
- Council Tax income based on the existing caseload and anticipated increase in Council Tax.

10.3 As such the overall impact will be factored into the budget gap.

However, any changes to the scheme, which increases or reduces, how much customers have to pay does have a budgetary impact as will any change in caseload.

It should though be noted that the cost of Local Council Tax Support and its funding is shared with the major preceptors.

The table below shows how the cost of Local Council Tax Support compares to the assumed Government grant:

Grant	Settlement Funding Allocation Reduction	Total LCTS Costs (£'000)	CBC LCTS Costs (£'000)	CBC Assumed Grant (£'000)	Estimated Cost of Scheme (£'000)
2013/14	N/A	9,085	1,081	1,321	-24
2014/15	13%	8,497	1,011	1,149	-138
2015/16	15%	8,047	958	977	-19
2016/17	17%	8,113	933	811	122
2017/18	17%	8,121	934	673	261
2018/19 (estimate)	11%	8,458	935	599	336
2019/20 (estimate)	3%	8,511	936	579	357

11. Health, Wellbeing and Community Safety Implications

- 11.1 The proposals contain provision for dealing with welfare concerns of residents. It is intended to limit hardship to avoid giving rise to crime and disorder.

12. Health and Safety Implications

- 12.1 There are no health and safety implications.

13. Risk Management Implications

- 13.1 Fundamental changes to the current criteria could potentially affect the collection fund position especially in consideration of the introduction of Universal Credit from 4 July 2018.
- 13.2 The absence of an adopted Local Council Tax Support Scheme for 2019/20 by 11 March 2019 could lead to introduction of a prescribed default scheme which broadly represents the former Council Tax Benefit scheme with an additional funding requirement.

Background Papers

- [Draft Local Council Tax Support policy document.](#)

Extract from the minutes of the Scrutiny Panel meeting on 16 October 2018

184. Local Council Tax Support 2019-2020

Councillor King, Portfolio Holder for Resources, and Jason Granger, Customer Solutions Manager introduced the Local Council Tax Support 2019-2020. The report requests that the Panel review and comment on proposed Local Council Tax Support scheme commencing 1 April 2019. Comments from the Scrutiny Panel will be considered ahead of the Cabinet meeting on 21 November 2018 and Full Council on 6 December 2018 where approval of the scheme will be requested. Councillor King provided the Panel with a summary of the report and the Local Council Tax support scheme. Councillor King stated that the proposal is for the scheme to be unchanged from 2018-19 and that the scheme provides help to 10,000 people, 40% of which are of pensionable age and 60% of working age.

Jason Granger, informed the Committee that the reason that the Local Council Tax Support scheme is unchanged is due to the current fluid landscape of the welfare system. In particular the launch of Universal Credit, on 4 July 2018, will require a transition period for many residents due to the significant change involved. Jason Granger explained that the keeping the Local Council Tax scheme unchanged allows for time to assess how best to administer and distribute Local Council Tax support. This will also allow Officers to look at the impact locally and nationally and design an appropriate scheme.

Members of the Panel welcomed the report and thanked Officers for their work. A question was asked whether the potential change in local government funding through Business Rate Retention could alter the scheme going forward. Jason Granger confirmed that further information would be required from the government to establish how the full business rate retention model would work. This supports the cautious approach and the unchanged nature of the Local Council Tax support scheme.

RESOLVED that;

- a. The SCRUTINY PANEL agree with the recommendations as set out in the Local Council Tax Support 2019-2020 report.

Report of	Assistant Director – Policy and Corporate	Author	Jessica Douglas/ Chris Reed ☎ 282240
Title	Officer Pay Policy Statement for 2019/20		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 Local authorities must publish an officer pay policy statement each year. The statement must be approved by Full Council.
- 1.2 The statement covers all pay and benefits for all Colchester Borough Council employees.
- 1.3 The draft statement for 2019/20 is attached, with the detailed rates in the appendix.

2. Recommended Decision

- 2.1 To recommend the approval and adoption of the 2019/20 Statement by Full Council.

3. Reason for Recommended Decision

- 3.1 The Localism Act requires “authorities to prepare, approve and publish pay policy statements articulating their policies towards a range of issues relating to the pay of its workforce, which must be approved by full Council annually. An authority’s pay policy statement must be approved by a resolution of that authority before it comes into force”.

4. Alternative Options

- 4.1 The only alternative would be to not recommend the approval of the Pay Policy Statement, but that would be contrary to the requirements of the Localism Act.

5. Background Information

- 5.1 Local authorities must publish a pay policy statement for the financial year. The Officer Pay Policy for 2018/19 was approved by Full Council on 6 December 2017.

The Localism Act specifies items that must be covered by the statement including the level and elements of remuneration for each chief officer, remuneration of chief officers on recruitment, increases and additions to remuneration for each chief officer, the use of performance-related pay and bonuses for chief officers, the approach to the payment of chief officers on their ceasing to hold office under or to be employed by the authority, and the publication of and access to information relating to remuneration of chief officers.

- 5.2 The Council's pay policy statement has been extended beyond the statutory requirements relating to chief officers as shown in 5.1 above to include all officers employed by the Council, in the interests of openness and transparency.
- 5.3 Please see the attached Officer Pay Policy. Appendix 1 of the policy contains the mostly numerical data which sits behind it, and the definitions of terms such as 'chief officers'. These two documents form the Council's officer pay policy statement.
- 5.4 The statement covers all pay and benefits for every employee of Colchester Borough Council. There are no financial allowances or bonuses other than those mentioned.
- 5.5 The three Amphora trading companies were set up in January 2018, within the Colchester Commercial (Holdings) Ltd holding company (CCH). CCH staff and those who transferred across to Amphora in April 2018 are not covered by this statement.
- 5.6 Mandatory requirements for data publication under the [Local government transparency code 2015](#), and for the Council's [Statement of Accounts](#) under the [Accounts and Audit Regulations 2015](#) have also been taken into account when preparing this year's update of the pay policy to ensure that the published data is complete and consistent.

6. Living Wage

- 6.1 The Council has chosen to pay the [Living Wage](#) as set by the Living Wage Foundation, since 2013 as part of its commitment to being a good employer, and its approach to [Social Value](#). The Council will continue to pay the Living Wage as a minimum standard for all its employees.
- 6.2 The Living Wage is set independently and calculated according to the basic cost of living in the UK. From 5 November 2018 the Living Wage rate is now £9.00, for workers who are 18 and older (see Appendix 1 of policy for more details, annual salary rate etc).
- 6.3 This Living Wage hourly rate, paid by the Council and set by the Living Wage Foundation, is higher than the statutory [National Living Wage](#) brought in by central government in April 2016 for workers who are 25 years or over (currently £7.83) or the [National Minimum Wage](#) (£7.38 if 21-24, £5.90 if 18-20, £4.20 if under 18).
- 6.4 The Council signed a 'Living Wage Employer' licence with the Living Wage Foundation in February 2016. This means that as well as paying the Living Wage Foundation's recommended hourly rate to staff, this has been included in new third-party contracts from that date. The Council is also implementing a phased plan which rolls out as contracts come up for renewal so that these third-party contracted staff also receive the Living Wage.

- 6.5 The first contract to come up for renewal was grounds maintenance in 2016. More than 300 permanent/casual Council staff and 40 third-party contracted employees had their wages increased to meet the £8.45 an hour Living Wage rate set in November 2016 (rose to £8.75 from 6 November 2017 and now £9.00 from 5 November 2018).
- 6.6 Arrangements are underway to renew the current cleaning contracts. The intention is for this to be one new cleaning contract comprising of all office, communal areas and sheltered schemes from March 2019. The Living Wage will be part of that contract renewal, improving the pay for around 12 to 16 third-party contracted cleaning staff.

7. Strategic Plan References

- 7.1 The performance, remuneration and motivation of employees are key to delivering effective, efficient public services and the Strategic Plan's aspirations and priorities.

8. Publicity Considerations

- 8.1 The data within the Officer Pay Policy is publicly available on the Council's website - '[Datashare](#)' so it is all in one place, helping to improve openness and transparency.

9. Financial implications

- 9.1 The pay policy statement provides transparency about the Council's pay and benefits.

10. Equality, Diversity and Human Rights implications

- 10.1.1 The Equality Impact Assessment is on the Council's website [here](#) or by following the path: www.colchester.gov.uk > Your Council > How the Council Works > Equality and Diversity > Equality Impact Assessments

11. Other Implications

- 11.1 There are no community safety, consultation, health and safety or risk implications.

Officer Pay Policy



Customer Business Culture

Contents	Page
Introduction	1
1. Pay strategy and framework.....	1
2. Pay review and annual increases.....	2
3. Remuneration of Chief Officers.....	2
4. Other items in addition to salary	2
5. Rewarding performance	4
6. Pension.....	4
7. Other financial benefits.....	5
8. Recruitment	5
9. Sick Pay	6
10. Payments when employment status changes	6
11. Election duties.....	6
12. Temporary staff and interim arrangements	6
13. Supporting Information.....	7
Document Information	7
Pay Data – Appendix 1	8

Introduction

The purpose of this policy is to provide an open and transparent framework that ensures clarity, fairness and consistency in the remuneration of officers.

The Council will comply with this policy which covers all officers. It ensures that employees are paid on a fair and equitable basis in accordance with equality legislation.

Colchester Borough Council recognises the importance of administering pay in a way that:

- attracts, motivates and retains appropriately talented people needed to maintain and improve the Council's performance and meet future challenges
- reflects the market for comparable jobs, with skills and competencies required to meet agreed delivery and performance outcomes
- allows for a proportion of remuneration to be at risk, depending upon the delivery of agreed outcomes and results
- delivers the required levels of competence within an overall workforce strategy within approved budget parameters
- is affordable and transparent.

1. Pay strategy and framework

- 1.1 The Council determines the level of annual salary for employees, including chief officers, using an established job evaluation scheme. Jobs are independently evaluated, using this scheme, by experienced Human Resources staff and all employees have the right of appeal against their pay grade.
- 1.2 The pay grades and salary spines are shown on the Council's website [here](#), and in Appendix 1 along with other definitions such 'chief officer'. Each pay grade has a number of incremental points and employees normally progress up their pay grade by one increment on an annual basis, subject to satisfactory levels of performance (see also section 5 - rewarding performance).
- 1.3 The exception to this principle is where employees have transferred their employment to the Council and salary protection exists under the Transfer of Undertakings (Protection of Employment) legislation commonly known as TUPE.
- 1.4 The pay policy incorporates the Council's Equality and Diversity policy (website link [Equality and Diversity in employment - Colchester Borough Council](#)) and periodic equal pay audits will be conducted.
- 1.5 From April 2017, [Equality Act regulations](#) require public organisations with more than 250 employees to publish a range of gender pay gap figures to show whether there are any differences in pay between male and female employees. The first annual gender pay 'snapshot' was published on the Council's website [here](#). This includes a link to the Government's website where figures from other public and private organisations can also be seen/searched for to help with openness and transparency.
- 1.6 The Council implemented the '[Living Wage](#)', which is independently calculated by the Living Wage Foundation, from April 2013 and became an accredited Living Wage Employer in February 2016.

2. Pay review and annual increases

- 2.1 The Council supports the principle of collective bargaining and has a recognition agreement with the trade union 'Unison'. Negotiation and consultation is conducted at a local level in relation to levels of pay and benefits for all employees including Chief / Senior Officers (see definitions in Appendix 1) using 'Colchester Managed Grades' (CMG) pay grades. The Council therefore is not part of any national terms and conditions for local government employees.
- 2.2 Local negotiations around a pay review are conducted on an annual basis, and any increase is agreed taking into account inflationary factors, local salary levels and affordability. Any decision to increase salary levels for all employees has to be approved by the Portfolio Holder under delegated powers set in the Council's [Constitution](#).
- 2.3 The Council publishes its pay multiple (the ratio between the highest and lowest paid employees) and does not currently set a target for this.

3. Remuneration of Chief Officers

- 3.1 The remuneration of all officers is determined using the Council's job evaluation and performance management schemes.
- 3.2 The median average value of Chief Officers' pay is shown in Appendix 1 together with the relationship to the lowest paid staff and other staff (referred to in the legislation as "the pay multiple").
- 3.3 The remuneration of all Chief Officers and Senior Officers is published in the Council's [Annual Statement of Accounts](#), which also includes a wide range of financial information.

4. Other items in addition to salary

The Council pays the following additions to annual salary:

- 4.1 [Overtime:](#)
This is paid to employees who are required to work in excess of their contracted weekly hours. All overtime is paid at plain-time rate derived from annual salary, and enhancements are not normally paid for working at weekends or public holidays. Employees on pay grade CMG5 or above are not entitled to receive overtime pay.
- 4.2 [Unsocial hours working:](#)
The Council pays an allowance to employees who work unsocial hours which cover 24-hour shift working. Allowances are also paid to employees who undertake standby and call out duties. A small payment can also be made to 'front-line' employees who are required to work over the Christmas and New Year period.
- 4.3 [Maternity, paternity and shared parental arrangements:](#)
The Council has a policy that supports parents and provides some enhancement to the statutory maternity, paternity and shared parental provisions. These enhancements are shown in Appendix 1.

4.4 Recruitment and retention payments:

Where the Council is faced with difficulties in recruitment to and retention of specific jobs, as a result of market pressures and skills shortages, the Chief Executive is able to sanction the use of a temporary recruitment/retention supplement, reviewed on a regular basis. This may include a non-consolidated payment on appointment and/or a retention payment to reflect the employment market and the needs of the business. Any such payment is to be authorised by the Chief Executive. If the employee leaves the Council voluntarily within a year, they will be required to pay back this non-consolidated payment.

Where an individual is being recruited and has significant experience or skills in the role for which they are being employed, Assistant Directors and above have discretion to appoint at any scale point (within the grade) above the lowest level.

Where an employee is upgraded using the Council's job evaluation scheme, the employee will move to the lowest point of the new pay grade such that they receive at least one increment. Any proposal to move the employee to a higher point on the pay grade has to be authorised by the Chief Executive.

4.5 Increases in responsibility:

Temporary or permanent payments can be paid at the discretion of the Chief Executive (for employees on CMG 7 and above), or at the discretion of a member of the Executive Management Team (for employees on CMG 8 and below), to reflect operational needs, the level of additional responsibility and the Council's increment/acting-up policies.

4.6 Other items:

The Council only reimburses reasonable business expenses actually incurred and in line with the Council's travel and subsistence policy.

Professional membership fees are reimbursed to employees at the rate of 50% of fees incurred and only one membership per employee is reimbursed.

External training costs are paid where they form part of agreed learning and development, and in line with the post-entry training policy.

There are no expense allowances or bonuses other than those mentioned within this pay policy.

5. Rewarding performance

- 5.1 The Council uses a performance management scheme to appraise the performance of all employees, including Chief / Senior Officers. Issues of poor performance can result in any annual increment being withheld.
- 5.3 The Council also recognises the need to incentivise specific jobs whose role involves a proportion of sales or income generation. In such cases a reward package will be developed, which needs approval by Senior Management Team. The annual salary and incentive payment will be determined outside of the job evaluation scheme and will be risk-assured in relation to equal pay.
- 5.4 The Council incentivises and recognises employees for their individual contribution towards the three organisational goals of 'Customer; Business and Culture' through a non-salary rewards scheme. Where an employee's contribution is deemed to be excellent they can be nominated for a non-consolidated payment up to the maximum value if authorised by an Executive Director. See Appendix 1 for the value of these incentives.

6. Pension

- 6.1 In accordance with statutory provisions, employees are offered membership of the Local Government Pension Scheme. The Council has a published pension policy and this policy applies to all employees including Chief / Senior Officers. It sets out the Council's decisions relating to discretionary powers allowed within the scheme. The pension contribution rates are shown in Appendix 1.
- 6.2 The Council also supports the principle of flexible retirement whereby employees are able to gain access to their pension whilst continuing in employment, subject to the restrictions laid down within the scheme and in the Council's Pension policy. This approach allows the Council to retain skilled employees and to assist individuals in managing the transition to retirement.

7. Other financial benefits

The Council currently offers the following financial benefits to employees, with the value of these charges and benefits shown in Appendix 1:

7.1 [Travel Plan incentives/charges:](#)

In order to encourage employees to use 'greener' travel modes, which also help to reduce town centre congestion, the Council has developed a package of travel plan measures. These measures include a charge for car parking for employees based in the town centre, and discounts for 'home to work' use of bus and rail travel.

7.2 [Salary sacrifice schemes:](#)

The Council has adopted approved government salary sacrifice schemes which enable employees to have deductions from pay to purchase childcare vouchers or cycles for travel to work. These schemes are tax efficient for the employee and are cost-neutral to the Council.

7.3 [Long Service Awards:](#)

The Council recognises the commitment of employees to public service and provides a gift to employees for 25 years' service with the Council.

7.4 [Other allowances:](#)

An allowance is paid for employees who volunteer to be designated First Aiders in the workplace.

8. Recruitment

8.1 In accordance with the Council's [Constitution](#), appointments to Head of Paid Service (Chief Executive), Executive Directors, Assistant Directors, Chief Finance Officer and Monitoring Officer, have to be approved by the Full Council.

8.2 All appointments are made in line with this pay policy.

8.3 The appointment of other Chief Officers and starting salaries within the grade must be approved by the Chief Executive.

8.4 The appointment of employees other than Chief Officers is delegated to the appropriate management level, relevant to the vacant job. The starting salary within the pay grade range is determined taking into account the skills and experience of the applicant and market pressures.

8.5 The Council does not restrict the re-employment of employees previously made redundant by either the Council or other Local Government. All applicants for vacancies are considered equally, based on their knowledge, skills and experience.

8.6 Full Council will be offered the opportunity to vote before large salary packages are offered in respect of new appointments. This level is set out in statutory guidance, and the current level is shown at Appendix 1 along with definitions of roles/posts.

9. Sick Pay

The Council applies the following sick pay scheme for all employees.

Service (years)	Full Pay (months)	Half Pay (months)
During first year	1	*2
During second year	2	2
During third year	4	4
During fourth/fifth years	5	5
After five years	6	6

* After completing 4 months' service

10. Payments when employment status changes

10.1 Redundancy:

The Council operates a redundancy payment scheme which applies to all employees including Chief / Senior Officers. The scheme is based on the employee's rate of pay and on the number of weeks paid under the statutory scheme, with an enhancement of 50% subject to a maximum of 45 weeks' pay.

10.2 Pay Protection:

The Council operates pay protection for a limited time period, within the terms of the redundancy policy. This applies when staff have their pay reduced as part of a process of re-deployment or job evaluation.

10.3 Agreements:

Where the Council is in dispute with an employee, the Council will make use of legally binding agreements to settle disputes in appropriate circumstances. The use of these agreements and the value of any settlement will be determined by a consideration of factors such as the potential costs of litigation, the degree of risk at employment tribunal adjudications and any reputational impact. The decision to agree a legally binding agreement will rest with the Chief Executive or, in the case of the Chief Executive, will rest with the Cabinet.

11. Election duties

11.1 The Council has determined that the Returning Officer is the Chief Executive, and the remuneration is separate from the Chief Executive's salary. Remuneration levels for employees who assist with local government election duties on a secondary employment basis are set by Essex County Council for county elections, and by central government for national and European elections.

11.2 The amount paid for election duties will vary depending on the number and type of elections which take place. The amount paid to the Returning Officer in the previous year is shown in Appendix 1.

12. Temporary staff and interim arrangements

12.1 The Council occasionally uses temporary agency or interim staff where it meets specific business needs and delivers best value. Levels of reward are determined by market rates. However, the Council will not use payment arrangements that could be perceived to be designed to deliberately avoid personal taxation.

13. Supporting Information

The following references have been used in producing this Pay Policy, along with the Council's existing Human Resource policies:

Legislation

- The Localism Act 2011 - [chapter 8 - pay accountability](#).
- The Equality Act 2010
- Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006
- Local Government Pension Scheme Regulations 2008
- [Accounts and Audit Regulations 2015](#).

Best practice guidance

Ministry of Housing, Communities and Local Government:

- [Openness and accountability in local pay: Guidance under section 40 of the Localism Act](#) and [Local government transparency code](#)

The Chartered Institute of Public Finance and Accountancy:

- [Code of Practice in Local Authority Accounting](#)

Local Government Association

- [Pay Policy Statements - guidance](#).

Our website

The Council's website www.colchester.gov.uk has a [section with more information about employment](#) at Colchester Borough Council.

The following policies and forms should be taken into account alongside this document:

Policies	
Equality and Diversity policy	Increment policy
Maternity and Paternity policies	Acting up policy
Pensions policy	Overtime policy
Local Government Pension Scheme (Administration) Regulations 2013 Discretionary Decisions by Colchester Borough Council	Performance management scheme
Post-entry training policy	Change Management and Redundancy policy
Travel and subsistence policy	Travel Plan

The policies are on the Intranet in the HR section: [A to Z of HR Policies and Procedures](#)

Document Information

Title :	Officer Pay Policy
Status :	2018 update of existing policy
Version :	Current
Consultation :	Cabinet 21 November 2018
Approved By :	Full Council
Approval Date :	6 December 2018
EQIA :	click here
Review Frequency :	Annual
Next Review :	November / December 2019

This policy applies to you if you are working under the Terms and Conditions of Colchester Borough Council.

Pay Data – Appendix 1

1. Annual Salary scales

Salary spine

point	Annual salary (£.p)	point	Annual salary (£.p)
4*	17,363.55	32	35,629.32
5*	17,363.55	33	37,001.74
6*	17,363.55	34	38,275.53
7*	17,363.55	35	39,549.35
8*	17,363.55	36	40,823.15
9*	17,363.55	37	42,147.62
10*	17,363.55	38	43,472.10
11*	17,363.55	39	44,796.54
12	17,723.59	40	48,089.22
13	18,111.20	41	51,381.93
14	18,501.56	42	54,674.62
15	18,886.44	43	59,061.71
16	19,272.06	44	63,448.77
17	19,661.66	45	67,835.85
18	20,043.83	46	72,222.89
19	20,624.55	47	76,609.96
20	21,205.30	48	80,816.22
21	21,786.03	49	85,022.51
22	22,336.77	50	89,228.75
23	22,947.51	51	93,435.04
24	23,574.82	52	97,641.28
25	25,444.42	53	101,847.58
26	27,360.60	54	106,574.34
27	29,276.77	55	111,301.07
28	30,479.37	56	116,027.81
29	31,681.94	57	120,754.54
30	32,884.50	58	125,481.29
31	34,256.92	59	128,017.92

The last pay increase was in April 2018 – 1.5%. The Living Wage rate, as set by the Living Wage Foundation, was uplifted to £9.00 an hour/£17,363.55 a year on 5 November 2018.

* *Note these salary points are ‘Living Wage’ (£9.00 from November 2018 – was £8.75).*

Employers can choose to pay the Living Wage on a voluntary basis, and the Council has done so since 2013. This is higher than the compulsory National Living Wage introduced by the government from April 2016 for all employees who are over 25 (currently £7.83).

Pay Grade range – Colchester Managed Grades (CMG)

Pay Grade (CMG)	Salary spinal column point (SCP) range	Pay Grade (CMG)	Salary spinal column point (SCP) range
14	4 to 7	7	32 to 36
13	7 to 12	6	35 to 39
12	11 to 18	5	38 to 42
11	18 to 24	4	42 to 47
10	23 to 27	2-3	46 to 53
9	26 to 30	1	54 to 59
8	29 to 33		

OFFICER PAY POLICY

Apprentices

The national introduction of an Apprenticeship Levy in April 2017 aimed to encourage businesses to create three million new apprenticeships by 2020. Employers operating in the UK with a pay bill over £3 million each year are now required to invest in apprenticeships via an apprenticeship levy charged at a rate of 0.5% of the annual pay bill.

The Council's first intake of apprentices joined in September 2017. CBC agreed the apprenticeship pay rate as the [National Minimum Wage by age](#) - this is more than the NMW rate for apprentices of £3.70 an hour, and CBC apprentices gets the NMW for their age straight away without having to complete the first year of an apprenticeship or be 19.

2. [Pay relationship for Chief Officers](#)

	2017/18	2018/19
Median average pay for Chief Officers	£75,477.80	£76,609.96
Median average pay for staff other than Chief Officers	£23,226.42	£23,574.82
Median average pay for lowest paid staff	£16,302.45	£16,881.23
Pay multiple of Chief Officer (Chief Executive) pay to staff other than this Chief Officer	5.43	5.43
Pay multiple of Chief Officers' pay to staff other than Chief Officers	3.25	3.25
Pay multiple of Chief Officers' pay to lowest paid staff	4.63	4.54

Notes – please also see definitions of officers at section 8 below:

- Median average pay is based on full-time equivalent annual salary plus additional payments for Chief Officers. It excludes election fees.
- 'Lowest paid staff' is defined as those paid the 'Living Wage' - see chart of pay grades on page 9.
- Pay multiple - the ratio between the highest and lowest paid staff.

3. Additional payments for Chief Officers

[Returning Officer election fees paid to the Chief Executive:](#)

Elections held	Amount paid	Year
Borough and Parish elections	£9,136.98	2018/19

4. Other pay additions and allowances – see pages 2 and 4 for eligibility

[Unsocial hours working:](#)

Where an employee is required to be on call "out of hours" as part of their duties:

Standby allowance:

- higher rate – immediate response must be made – day rate £16.95
- standard rate - non-immediate response – day rate £8.48

Call-out: £42.30.

[Maternity, Paternity and Shared Parental pay:](#)

In addition to the statutory provisions, the Council pays 20 weeks at half-pay for mothers who go on maternity leave and subsequently return to work. Up to two weeks' paid paternity leave is granted to eligible employees.

OFFICER PAY POLICY

Non-salary rewards scheme:

Quarterly – 1,500 loyalty points (£15 in value) can be redeemed on activities or products within Colchester Leisure World. Maximum of 42 staff across all services each quarter.

Annually – incentive is sourced via reciprocal marketing and voucher schemes.

Exceptional performance:

Non-consolidated payment/honorarium to a maximum of £1,000 if authorised by an Executive Director.

6. Pension contribution rate

Employer rate is 15.1%. Employee rates are:

LGPS Contribution Bands April 2018	
Actual Pay (includes overtime, additional hours and so on)	Contribution rate per year
Up to £14,100	5.5%
£14,101 - £22,000	5.8%
£22,001 - £35,700	6.5%
£35,701 - £45,200	6.8%
£45,201 - £63,100	8.5%
£63,101 - £89,400	9.9%
£89,401 - £105,200	10.5%
£105,201 - £157,800	11.4%
More than £157,801	12.5%

7. Other financial benefits – see page 5 for eligibility

Travel Plan benefits and charges:

Car parking charge – this is paid by employees if they drive to work:

- £2 per day.

Home to work travel, in line with Travel Plan policy:

- Bus season ticket discount 50% / train season ticket or 'bulk buy' discount 35%.

Long Service award:

- Maximum value of £250 for 25 years' service with the Council.

First Aid allowance - for employees designated as First Aiders in the workplace:

- £155.82 a year.

8. Definition of terms used in the Officer Pay Policy and Pay Data documents

- Chief Officers – posts requiring appointment by elected councillors - designated as Chief Executive, Executive Directors and Assistant Directors within the Council's constitutional arrangements for appointment. It also includes the Section 151 and the Monitoring Officer where those roles are not performed by an Assistant Director. These posts meet the Chief Officer definition in [paragraph 43 Localism Act](#).
- Chief Officer – this is the Chief Executive.
- Senior Officers – any post with a salary of £58,200 and above, which is the Senior Civil Service minimum pay band ([paragraph 12 code of practice](#)).
- Senior Management Team – the Chief Executive, Executive Directors and Assistant Directors.
- Large salary package – this is defined in statutory guidance and the current threshold is £100,000 ([paragraph 14 Localism Act guidance](#)).

Report of	Assistant Director (Communities)	Author	Jon Ruder
Title	Hackney Carriage/Private Hire Licensing Policy // Consultation Responses		☎ 282840
Wards affected	Not applicable		

1. Executive Summary

- 1.1 The Committee is asked to consider the consultation responses received following a further period of consultation on the Policy.

2. Recommended Decisions

- 2.1 That the Policy, excluding Appendix 1, be recommended to full Council for adoption and implementation with effect from 1 January 2019.
- 2.2 That full Council be recommended to delegate to the Licensing Committee authority to determine the provisions in relation to the installation of CCTV in hackney carriage and private hire vehicles.

3. Reason for Recommended Decision

- 3.1 To approve the necessary changes to the Licensing Policy, however further information is required from the Information Commissioners Office and other agencies to ensure a robust procedure is in place relating to CCTV, which means that the Council is not in a position to include at this stage provisions relating to CCTV in the policy.

4. Alternative Options

- 4.1 To leave the Policy unchanged but this would leave it unfit for purpose.

5. Representations

- 5.1 In August 2018, the Committee approved the Policy, including the provisions relating to CCTV, for the purposes of consultation with the trade.
- 5.2 A number of comments have been received, particularly in relation to CCTV, but also on other matters contained within the Policy and the responses are attached at Annex 1. There are representations in relation to cycling on which the Committee is invited to take a view. Mention is also made within the Annex of the representations submitted at the end of the last Committee meeting in August.
- 5.3 There are some broad themes which are common across the representations which relate to, amongst other matters, cost, installation, privacy, enforcement, exemptions, and data access. A meeting was held on 19 October 2018 with a number of trade representatives at which further matters were raised including ownership of data; recording if the car is being used as a private vehicle; camera viewpoints for larger vehicles; use of the panic button; access to the data by operators and whether CCTV will be required for temporary replacement vehicles.
- 5.4 The officers response to the themes raised are set out in Annex 2 to this report. It is however acknowledged that in some cases it has not been possible at this stage to give a full response and this is addressed in paragraphs 7.1 and 7.2 of the report.

6. GDPR and the control of data

- 6.1 A key consideration regarding the installation of CCTV, in licensed vehicles is the need to satisfy the requirements of the General Data Protection Regulations (GDPR) as enshrined in the Data Protection Act 2018.
- 6.2 The requirements include identifying an appropriate lawful basis for processing personal data as well as providing individuals with the information to which they are entitled under their right to be informed. The Council must assess whether the personal data collected is proportionate and necessary to the purpose for which it is collected. The Information Commissioner's Office (ICO) has produced a draft code in relation to CCTV recording and this code makes reference to a decision notice issued by the ICO in which additional audio recording in a licensed vehicle was deemed to be disproportionate. Audio recording by way of a panic button has however been permitted.
- 6.3 In relation to the installation of CCTV in licensed vehicles, the specific purpose for collecting and retaining CCTV data is to ensure public safety; it is considered that this is a specific and legitimate reason for collecting the data. The reason for CCTV must be clear to any individual entering a licensed vehicle and therefore signage is essential, this would involve providing access to key privacy information on appropriate signage placed within the vehicle. The signage in the taxi may also refer back to the Council's website where further more detailed information is held on the justification for the data collection.
- 6.4 The Council must consider whether the requirement to install CCTV is proportionate and whether it could be done a different way. The Council has examined its own recorded crime/incident records and anecdotal evidence including from its partners and is satisfied that there are sufficient concerns to warrant further detailed work on the introduction of CCTV.
- 6.5 In relation to the ownership of data, whilst the driver is collecting the footage and has the means of storing it, the Council has determined the purposes for which it is collected and the way it is processed and therefore the Council is the data controller. As such the

Council is also ultimately responsible for any breaches or non-compliance by data processors who process the data on their behalf. As data controller the Council will need to maintain records of its data processing activities, a complete record of what data is held, where it came from, and how it is processed and agree the necessary protocols for the handling of such data. It will need to exercise a significant degree of control to minimise the risk of any data being tampered with. The retention of any footage will necessitate a data retention policy. The responsibilities placed on the Council as data controller are considerable and require further detailed investigation to ensure that any system installed is fully compliant with the relevant codes.

7. Conclusions

- 7.1 Many of the concerns raised both in the representations and at the trade meeting cannot be properly addressed until the matters around data protection have been further investigated. This work is essential prior to the Committee being able to make an informed decision regarding CCTV in licensed vehicles. Further discussions are required to be undertaken and concluded with the ICO and other relevant parties. Following this a full report will be submitted to the Committee. In order to allow this important work to be undertaken whilst enabling the remainder of the Policy to be implemented, it is proposed that the Policy, with the exception of Appendix 1, be recommended to full Council for adoption and implementation.
- 7.2 The Council's commitment to the introduction of CCTV is mentioned in the Policy and it is proposed that, if the Committee wishes in principle to proceed with the introduction of CCTV into licensed vehicles, additional wording be included within the Policy to confirm that CCTV is also sought as a measure to protect the public.

8. Equality, Diversity and Human Rights implications

- 8.1 The draft Policy has been developed in accordance with, and taken account of, all relevant legislation and national and local strategies.

9. Strategic Plan References

- 9.1 The Policy aims to contribute to the Council's vision of the Borough by ensuring that the licensed trade plays a significant role not only in the Borough's transport strategy but also in helping to promote Colchester and thereby enhancing our reputation as a destination and encouraging further investment.

10. Publicity Considerations

- 10.1 The draft revised policy was the subject of an extensive consultation process.

11. Financial Implications

- 11.1 There may be costs incurred in defending any action brought against the Council which seeks to judicially review the policy. There will be a cost for the Council being the data controller and also the Council would be financially liable in the event of a breach of the data protection requirements.

12. Community Safety Implications

- 12.1 The policy deals with the protection of children and vulnerable adults.

13. Health and Safety Implications

- 13.1 There is no known direct public health and safety issues which might arise from the adoption of the revised Policy.

14. Risk Management Implications

- 14.1 A flexible yet robust revised Policy will continue to provide both the Council with a sound basis for decision making.



To the Licensing Team

licensingteam@colchester.gov.uk

Colchester Travel Plan Club response to Taxi Policy Consultation

Colchester Travel Plan (CTPC) works with 39 member organisations, employing over 12,000 staff, and educating over 20,000 students. We collectively promote sustainable travel and encourage travel behaviour change to reduce traffic congestion, improve air quality, improve health and encourage more active lifestyles.

In response to the Taxi Policy consultation we make the following recommendations:

Encouraging Environmental Sustainability

Air pollution

6.4

The Council further requires that drivers of licensed vehicles turn off their engines when waiting in the Borough's Air Quality Management Areas as set out on the plan at Appendix 1. There may be exceptional circumstances when drivers are permitted to wait with their engines idling

We strongly recommend that Taxi drivers are required to turn off their engines when waiting **throughout the Borough** and not just in the air quality management area.

- We frequently notice Taxi drivers idling their engine outside schools, GP surgeries, hospitals and at the train station. School children, the elderly and people with heart and lung conditions are most at risk from air pollution.
- Colchester Borough Council and other CTPC members introduced a No Idling policy on Clean Air Day 21st June 2018. This is just the beginning of a wider campaign to encourage all drivers to turn off their engines when stationary regardless of where they are in the borough, so we feel the Taxi policy should be in line with the aims of this campaign.
- As an Ambassador for the Borough; Taxi drivers can show the community their commitment to reducing local air pollution and supporting the wider sustainability agenda
- In order for turning off when waiting to become an ingrained behaviour it needs to be consistently applied so it becomes automatic. Simply asking them to switch off when in the air quality management area and not elsewhere will not embed the habit.

Protection of the Public, Safeguarding Children and Vulnerable Persons and the Prevention of Crime

We recommend an additional subject is added into this area and/or Driving Training.

Safe distances for passing cyclists.

'Close passes' of cyclists are a major barrier to encouraging more people to cycle and research shows that 52 % of drivers are unaware of how much space they need to give when passing cyclists.

The government has made a commitment to improve education around passing cyclists especially through driving instructors and the police force.

As a growing town with an air quality management area and traffic congestion, we need to encourage more people onto bikes.

As Taxi drivers are out on the road all day, we recommend a compulsory part of gaining/renewing a licence should be education on close passes. This could be delivered by the Council's Approved Driving Assessors accompanied by:

- Compulsory Bikeability training so that Taxi drivers receive practical experience of cycling and the guidance cyclists are given for interacting with other road users.
- Cycling UK's 3 minute educational virtual reality film which gives a driver the opportunity to see what it feels like to be a cyclist when someone passes them too closely in a vehicle. It also provides information about how to pass safely.

The VR film in both [20](#) and [30](#) is available on the Cycling UK YouTube channel: <https://www.youtube.com/user/CTCOnline/videos>

Colchester Travel Plan Club

Coordinators Emily Harrup & Pam Nelson

01206 506476

Annex 1

<https://www.taxi-point.co.uk/single-post/2018/09/10/CCTV-in-taxis-What-is-the-law-on-continuous-recording>

You may find this article helpful in regards to CCTV it taxis and private hire

Good Morning all

I have today received your letter dated 10 September regarding the above Consultation.

There are a couple of points in the Consultation that I will address formally in a further e mail, but in the meantime may I ask a couple of questions regarding CCTV specifically.

1. The specification you require is to a very high quality, may I please ask for what supplier system you based the specification on?
2. What was the quoted price for supply and fitting?
3. Was any potential discount offered for supply to the the Authority's licensed vehicle fleet?
4. Do the Council intend to subsidise the costing for equipment to this specification?

I have had a brief look on line and would anticipate the cost to each vehicle to be quite considerable. Unfortunately a lot of suppliers do not publish full specifications for their systems so it is very difficult to get a comparison between different systems.

Back in the day, after some research, the Hackney Trade were offered a CCTV system supplied and fitted for around £120.00 deposit and an ongoing charge of around £10.00 per week. For the life of me, I cannot remember the supplier but it may still be on the F drive somewhere. Have the Council looked at this option?

Hope you are all well and I look forward to hearing back from you in due course.

Dear Sir/Madam

With regards to your recent publication of a new taxi policy and conditions, I noticed that under the dress code you have added a preclusion against the wearing of baseball caps. This seems to me a bit strange, I personally wear one when driving for practical reasons, it is much more efficient in keeping the sun out of your eyes than the standard in car visor, especially because it covers side dazzling and still allows you to have full view of your mirrors. It also during the day reduces glare even when not driving into direct sunlight.

On another point, in this day and age they are an acceptable part of actual uniform for all kinds of people from postmen to fully uniformed police officers, in fact your own parking enforcement officers wear them.

I can understand if you ask that they are a simple plain colour without any logos or team emblems, same as shirts, but to ban them outright is, frankly, unreasonable.

On another point, could I please ask how to go about viewing a historical copy of the hackney carriages register from previous years? I'm particularly interested in how plate 105 became exempt from being a wheelchair accessible vehicle.

Dear Licensing team,

Thank you for the revised policy for consultation.

I refer you to my previous correspondence sent in February 2018. I see no reason to change my views following the new version. I can see no circumstances for the Executive companies to have CCTV fitted. All the passengers I carry are pre booked well in advance. I collect name, address, phone contact and email contact for all my customers. All my trips are confirmed in writing by email. The majority are pre paid two weeks prior to the date of travel so there are not any disputes over payment.

I do have a forward facing dash camera fitted in my vehicle.

As a business who encourages feedback on my website and social media, I would be unwise to create a situation whereby my actions would generate negative feedback that could be viewed by my existing, or potential new customers.

In conclusion, I can only reconfirm that I am against any form of CCTV being fitted internally in my vehicle, but do support the policy in the Hackney and Private Hire vehicles who work in town.

I would be happy to attend a meeting with the licensing team if required and provide any evidence required to substantiate my views.

Cctv Specifications

Proposed changes.

1.7

The Cctv should be active at all times. Drivers will forget to turn the system on and off and if they want to use there Car as a personal vehicle then why must they always display doors signs.

1.17

There should be no triggers to start and stop recording. One this will keep the costs lower and secondly I feel it will cause more tension during the journey if either the passenger or driver starts to record each other. This also applies to 1.26

3.6

Vehicles with shields would need 3 cameras and incur more cost. I'm not sure if the borough even has any vehicles with shields.

4.2

All units would need to be fitted within the rear luggage compartment.

4.3

Lockable sata hard drive which will be removed by the authorised personnel only to be able to download any files.

4.4

Unable to be done.

4.5

As 4.4

4.15

Vehicle Reg and plate number.

4.16

Vehicle Reg

6.2

Unable to do this. All files that need to be viewed must be done within 28 days. Or get larger hard drives to record and store for longer periods.

9.1

This will be by lights on the unit which is in the boot. There is no other way to display this on the dash.

9.2

9.3

All as 9.1

The system will not allow downloads via cables or internet. All files that need to be viewed must be done within 28 days and the hard drive will need removing from the unit located in the boot. Which will be locked by a key supplied to the authority.

As most complaints within our company and probably every other as well, are dealt with internally. Only serious and repetitive complaints are sent to the council. With this in mind operators who hire vehicles to drivers should also have access to the system and be able to view any necessary files. The operators must hold a ico licence.

My heart soared as I read the article in the county standard.

I am so pleased to see a positive measure and back the proposal wholeheartedly.

A small but welcome step towards improving our town.

Dear Sir or Madam,

I am writing to raise my objection over the proposed plans to install CCTV into private hire taxis/Hackney taxis. I object for the following reasons;

- I have already spent a significant amount money on my own CCTV in my private hire taxi and I do not wish to spend anymore on another system that does the same job
- My current CCTV system does the same job as the proposed system at the cost of £150, which is a lot less than the council's CCTV suggestion
- I have already taken out a loan to buy my car of £12000 and financing for an extra unwanted CCTV is an extra burden
- My camera/CCTV would be a wasted purchase
- My camera/CCTV can be transferred to another vehicle easily, without all the extra cost of re-wiring if I was to change my car.
- I do not want CCTV watching me when I am using my taxi for personal/family use, as I have option of turning my camera off
- also some customers, do not agree to have my camera switched on for genuine personal reasons and I use my discretion to decide when it is appropriate to turn off my camera, I will not have this choice if the council install their CCTV
- If any incidents happen such as a theft, I am able to replay the footage for identification and safety purposes for myself. However, I will not have this crucial access if it is centrally controlled and recorded elsewhere by the council
- Presently, I am completely happy to share my footage with the police or for any legal reasons etc
- Also there is a overall sense of unease with the thought that people will be watching and monitoring me all the time

I hope you will consider all my points in this matter that will affect my livelihood and that of many others in Colchester. The comments raised are shared by many taxi drivers across the town.

I am responding to the [Council consultation on taxis and the Hackney Carriage and Private Hire Licensing Policy](#). I note that "The policy sets out ... how drivers and operators are expected to operate to pursue and promote the following licensing objectives: ...Encouraging environmental sustainability."

Please could the Council enforce the law on idling wherever taxis are waiting for fares and especially at North Station? Many times, as a returning commuter in the evenings, I have found taxis at the back of the queue with engines running for no apparent reason. This is in breach of the licensing objective to encouraging environmental sustainability and I would like the Council to put a stop to this.

Note: Vehicle idling is an offence against the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002. The law states that is an offence to idle your engine unnecessarily when stationary. If you fail to turn your engine off after being spoken to you may be issued with a fixed penalty notice of £20.

See http://www.legislation.gov.uk/ukxi/2002/1808/pdfs/ukxi_20021808_en.pdf

Freedom of Information request. Please could you let me know what the Council policy is on enforcing the law on idling generally and tell me how many fines have been imposed year by year since the offence was introduced?

Thank you for your attention and I look forward to hearing from you.

Dear Sirs,

I am writing to object to the proposed plans to install CCTV into private hire taxis/Hackney taxis for the following reasons;

- I have already spent a significant amount of money and installed my own CCTV in my private hire taxi.
- I do not wish to spend anymore on another system that does the same job.
- I have borrowed money from family to buy my taxi car which I am paying back slowly and do not want to be further burdened to paying for an extra unwanted CCTV.
- My camera/CCTV would be a wasted purchase
- My camera/CCTV can be transferred to another vehicle easily, without all the extra cost of re-wiring if I was to change my car.
- I do not want CCTV watching me when I am using my taxi for personal/family use, as I have option of turning my camera off
- also some customers, do not agree to have my camera switched on for genuine personal reasons and I use my discretion to decide when it is appropriate to turn off my camera, I will not have this choice if the council install their CCTV
- If any incidents happen such as a theft, I am able to replay the footage for identification and safety purposes for myself. However, I will not have this crucial access if it is centrally controlled and recorded elsewhere by the council
- Presently, I am completely happy to share my footage with the police or for any legal reasons etc
- Also there is a overall sense of unease with the thought that people will be watching and monitoring me all the time.

My suggestion would be to that all drivers install their own CCTV system of a reasonable quality and price for their own reassurance/safety as well as offer piece of mind to the public. Rather than have a expensive CCTV put in where they have no control or choice of privacy. In most cases it is the Taxi drivers who are at risk of attack and violence. There are occasions where passengers run off without paying, or drivers are abused, and having a CCTV system would provide the crucial evidence to resolve disputes.

I hope you will consider all my points in this matter that will affect my livelihood and that of many others in Colchester. The comments raised are shared by all taxi drivers across the town.

I would like object to CCTV being compulsory for all Taxis and private hire vehicles. On the Basis of the expense young drivers with families struggle to earn a living as it is can't see any positive benefits for the great expense that it is.

This should be the choice of the individual drivers and not Compulsory.

I would like to know who is going to pay to maintain these cctvs. Who do I charge my time to when I have/ if an incident in my cab and I have to take time off work while a member of the council download the footage as I would want to be present while that is happening. Who is going to pay for replacement cctv if it breaks and can not be fixed. So my concerns are for money. I can replace a £20 cctv but not a £600 plus one. Who else is going to pay for a replacement if the cctv is damaged or stolen. The police recommend that we all take electric items out of our cabs because of break ins. And as you know a lot of cabs are broken into regular by thieves.so if we leave them in our cabs we will not be covered by insurance. This is my objection. Debbie shore. Plate number I can't remember I think it's 655 not sure tho.

Hi

I'm not interested having that system fitted in my taxi firstly because it's very expensive why should I pay for it. Secondly I feel you are invading my privacy, therefore I'm not interested at this time.

I currently have my own cctv in the event should anything occur.
Sent from my iPhone

Hello

I'm not interested having that system fitted in my taxi firstly because its very expensive why should I pay for it. Secondly I feel you are invading my privacy, I therefore I'm not interested at this time.

I currently have my own cctv and I paid £160 in the event should anything occur.

Kind regards

I strongly disagree with with this idea, too intrusive, unnecessary, way to big to carry in my car I need all the space I have. Lastly way, way too expensive, with no help for my customers what so ever.I have two way camera only cast £157.00 Many to help with other car drivers.
Please call me if you disagree with this

Dear Sir/ Madham,

I am writing to you with regards the latest letter I received to the potential compulsory CCTV added to all HC & PH CBC licensed vehicles.

I would like to state my personal driving experience in the town & offer my opinion based on this (please note I have been doing this for 12 years).

The towns economy has turned flat on day & night earnings over this period & with Tuesday, Thursday & most nights falling short of a busy town 10 years ago.
Saturday night is the only real economy time earner.
This is a sign of the times with the economy suffering since the recession in 2008- customers just don't have the money they had back then.

In ANY town/city you will have small incidents & Colchester would be in be same bracket as Glasgow, Bristol, Brighton, Stoke & others across the country.

I would like as a "Freedom of Information Act 2000" numbers of policing & CBC reported incident's involving Hackney Carriage & Private Hire vehicles over the past 5 years which include....

2017
2016
2015
2014
2013

CCTV footage is a grey spot with many legal restrictions & requirements needed to operate on.

My personal view is that it should be the OWNER/DRIVER who should have the choice if they wish to install this to their vehicles, NOT the councils compulsory choice to add them (at the licence holders cost!).
I strongly disagree with the route they are taking & object to this going forward.

I could write a large dossier on the pros & cons on having this installed however the conclusion for me is simple.....
Owner/Driver's should have the choice to have CCTV dash cameras fitted.

I look forward to hearing from you with regards incident numbers over the past 5 years & if you wish to discus this further, please call or email me.

Dear Jon ruder

Why is not surprised that you would rush punish driver's of having no rank to work,instead of build a rank of 131 taxis, rather than a stand of 21 taxis

Stalking driver's

Stalking is unwanted or repeated surveillance by an individual or group towards another person. Stalking behaviors are interrelated to harassment and intimidation and may include following the victim in person or monitoring them. It is illegal may led to prosecution

Take a look at!

Traffic Management Act 2004

The Secretary of State's Statutory

Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions

1.9 Authorities must have regard to this Statutory Guidance (as stipulated by section 87 of the traffic Management Act 2004) when exercising their functions.

1.10 If enforcement authorities are themselves uncertain about any aspects of these requirements,they should get the appropriate legal advice.

Dear Sir/Madam, as a Colchester Hackney Carriage driver I'd like to object to the proposed CCTV scheme for all licensed cabs. The cost would be extremely unfair to all drivers, as would the compulsory nature of the proposal.

11/10/2018

Dear Sir,

Hackney Carriage and Private Hire Licensing - Policy Consultation, General Information and other Matters

I wish to make some observations on Representatives, Policy and Policy Consultation. I will "Bullet Point" concerns.

* Representatives.

On the CBC Web site, it gives the Private Hire Representatives as Dave Boylan, Christine Hardy and Tony Tokley; who are all owners of Private Hire Companies. There may be a time where a Private Hire Driver or a member of their staff have a problem with the owner or company. It should be made clear that Private Hire Driver

and members of Staff can report matters and raise concerns directly to Licensing Officers.

* Driver Health.

Why do drivers over 65 have to have a medical every year, what happens after 65 that drivers need a medical? Do Staff members or subcontractors who work for CBC have medicals after the age of 65. I find this very discriminatory, especially as I have just had a three-year medical at the age of 68, with no problems! Also, this will be an extra cost which will eat in to the viability of continuing to work.

* CCTV

I only do a "School Run" and do no private hire work, my income is limited. I have a "Passenger Assistant" with me at all times to look after the children's wellbeing while in my car. The car I use is owned by myself. I have been doing a "School Run" for at least

five years without any problems and as far as I know have not had any complaints made against me.

I only intend working for a further two years at the most, having to purchase, install and maintain CCTV in my car would just not be viable, which would then cause financial hardship as I still have a mortgage.

There are nine pages of "Specifications" for the standard of CCTV, well I am a driver and have no "idea" of what these specifications mean, I left school at 16 in 1966 without any "qualifications" in a world where there were no "mobile phones" or "computers". This all could lead me to receiving "Penalty Points" if I have the wrong type of CCTV!

CCTV will not reduce crime and if a crime is committed will the police take any action, we all see in the press that no action is taken by the police as they are under staffed.

* Night Time Economy

I have worked as a Licensed Driver for 17 years

I used to work late nights Thursday, Friday and Saturdays as Private Hire

Work place was all over the Borough and neighbouring areas

During my last few years of working nights, I have had many incidents of Aggression, theft, vandalism and vomiting in car.

All apart from theft were alcohol or drug related.

No incidents were reported to the police as there was no point as they would not take any action or be of any help. I was once told by a Policeman in Colchester High Street "what do you expect you are a cabbie"

Do I feel safe in Colchester Town Centre "No" As I have stated I now only do a school run and I would never go out in the evening for a meal or drink in Colchester Town Centre.

* A Question

What support do CBC as a Licensing Authority give to Drivers who have been assaulted?

Your letter re above subject dated 10th September 2018.
My e-mail re above subject dated 26th February 2018.
Colchester Borough Council Licensing Committee Meeting dated 21st March 2018.

Thank you for the invitation to comment once again on Colchester Borough Council (CBC) Licensing Policy.

I have studied the changes to the policy with interest, they confirm to me the impression I formed at the Licensing Committee Meeting referenced above (where I witnessed what can only be described as a travesty of democratic discussion).

I was left with the conviction that this policy is going to be forced through by the Licensing Department and the chair of the licensing committee irrespective of objections.

Despite this, I feel obligated to offer the following points for your consideration.

1. Consultation process.

It appears that the consultation process has so far been limited to members of the licensed trade, who are obviously directly affected by the policy both administratively and financially.

However, the policy regarding the installation of CCTV in every vehicle will immediately remove from all members of the public, who use Taxis or Private Hire Vehicles registered with CBC, a fundamental right granted under the recently introduced General Data Protection Regulations (GDPR).

That is, the right to refuse consent to the collection of identifiable personal data.

As this is the case it would seem right and proper that a Public Consultation should be held, so as to avoid introducing by stealth such a removal of rights, and to make the public aware of yet another intrusion by an official body into their personal lives.

2. Costs.

At the committee meeting referenced above, a price of 'about £300' was casually mentioned as the cost for each vehicle to be equipped with CCTV. However, the system being discussed at that time was what might be described as a 'dumb' system, which was either on or off.

The changes to the technical specification in the current proposals require a much more sophisticated system. Unfortunately I have not been able to find a local supplier/installer who will offer me a quotation based on the council specification. If you could advise me of who you are recommending for this role I would be most grateful, as this will enable me to obtain an accurate costing for consideration.

There are also two further costs to the vehicle owner which have possibly not been considered.

a). On changing their vehicle, the owners will be forced to pay to have the installed system removed, and for its installation into a replacement vehicle.

The policy allows the transfer of the system, but this assumes that the components are suitable for any replacement vehicle.

I do not believe this transfer cost has been considered.

If they are not suitable then the owner will be required to pay for a completely new system.

b). The other hidden cost which the vehicle owner will be faced with is the cost of making good any damage to the interior fittings of the vehicle.

It is highly likely that there will be damage caused to the dashboard and front and rear console, plus possibly to roof or pillar linings.

To be able to sell the vehicle the owner will be required to either replace the damaged components or sell at a much lower price. Either way will have a significant financial impact on the owner.

This particular point has even greater relevance to those operators who lease their vehicles, who are required to return the vehicle at the end of the lease in an undamaged condition.

We are therefore left with the following calculation.

Cost of initial purchase and installation.	£ Unknown
Cost of removal and reinstallation into replacement vehicle.	£ Unknown
Cost of making good damage caused by installation.	£ Unknown

Total cost to vehicle owner.	£
Unknown	

3. Proportionality.

To quote Elizabeth Denham, UK Information Commissioner, "installation of CCTV should be undertaken only when it is a necessary, justified and effective solution to the problem".

I have yet to see any analysis of the scale of the problem CBC is attempting to combat, other than statements such as 'We get a lot of complaints'.

In order to rectify this shortcoming I have made a Freedom Of Information request (CBC reference 354942) for data regarding complaints made in the years 2015, 2016, 2017 and 2018 (Jan-Sept inclusive).

As I have not, as of today's date (15th October 2018), received any data I would like to request an extension of the consultation period beyond its 21st October 2018 deadline. This will enable CBC to provide the required data and for its analysis and presentation. I feel a three month extension would not be unreasonable under the circumstances.

4. Administration.

According to the Council Policy each vehicle owner will be required to register their system with the Office of the Information Commissioner.

Given that the systems will be installed at the insistence of CBC and that the owner will have no control over the collection or use of the data, which can only be accessed by the council, it would appear that under the GDPR it becomes the responsibility of CBC to administrate both the systems and the data, via the appointment of a Data Controller.

5. Loss of business.

I have discussed the proposal for the installation of CCTV with all my regular customers, most of whom are business travellers and have yet to meet one who is in favour of this proposal.

Indeed, one of my largest customers, who is also one of the largest employers in Colchester, has suggested that if necessary they could consider using vehicles registered with other boroughs as a means of short circuiting what they perceive as an unnecessary and intrusive piece of legislation.

This would have disastrous consequences not only for me but also other operators in the borough, who benefit from an annual spend running into tens of thousands of pounds from this one company.

I am also aware that other operators have received a similar response from their customers.

6. Outside recording.

By the very nature of the camera being required to capture clear images of everyone in the vehicle it seems highly likely that images will be captured through the windows of people and places not associated with the vehicle.

I have not been able to find any reference to this specific situation, though there is case law regarding household CCTV being intrusive if it overlooks other property. I would value your views on this point.

7. Conclusion.

Whilst I appreciate the thoughts behind the proposal for the installation of CCTV with regard to possibly increasing safety for both driver and passengers I feel that it should be left to each owner/operator to decide what is required for their business and that there are many other considerations which have not been properly explored.

There is also the possibility that the installation of a system matching the specification could contribute to unnecessary confrontation.

As an example. If the driver activates the audio recording, the passengers will be made aware of this by an indicator light. Depending on circumstances this could trigger a hostile and possibly physical response by the passengers, who may consider the recording unnecessary or provocative. This could turn a normal(ish) journey with rowdy and intoxicated passengers into something else entirely.

As in my previous submission to the council, I remain fully prepared to meet with members of the Licensing Dept or the Licensing Committee to discuss the points raised, and I am aware of many other operators who would also value the opportunity to have a face to face discussion.

With regards to the Licensing Policy Consultation relating to the installation of CCTV in Private Hire Vehicles and Taxis I have the following comments for your consideration.

I fully recognise and support any measures to enhance Public Safety and also that of the Private Hire drivers during transportation particularly in the evenings and as such I understand the benefits that the installation of CCTV in Taxis engaged in this work may bring.

I would however draw your attention to the guidance of the UK Information Commissioner to Councils which states "you need to go back to the start of your project and consider the problem you are seeking to resolve and whether a CCTV system would be a necessary, justified and effective solution.

Take into account whether other, potentially less intrusive solutions exist that can achieve the same aim, as well as the effect that each aspect of the CCTV may have on individuals, and whether their use is a proportionate response to the problem identified".

1. Your consultation e-mail has been circulated to Colchester Hackney Carriage, Private Hire Operators and Drivers only, however, in accordance with the GDPR regulations issued this year the other major party affected is of course the General Public so I submit that they should also be consulted regarding the collection and storage of close personal Data when considering the installation of CCTV as it is their right of consent particularly as you claim you are acting in the interests of their Safety.

2. With regards to local taxi work I am not in possession of information relating to incidents, complaints and allegations registered in the Borough (although I believe this information has been requested from you) so I am unable to make a judgement as to whether the installation of CCTV in Taxis undertaking this work might be considered to be a proportionate solution to any problems identified.

3. The Licensing Team recognise that there are distinctions between Private Hire Business's and Taxis in that discretionary exemptions are granted in certain circumstances for example where contracts exist between Companies such as my own and Business Clients whom sub-contract Chauffeur and Ambassadorial Services in respect of their Clients and Employees. I will not undertake ANY public transportation only working for those companies for whom I hold an exemption to display private hire license plates or branding using expensive Executive quality vehicles.

During the 13 years that I have been granted this exemption there has never been one single incident involving the behaviour of our Clients or myself and drivers that work for me. If there were to be any issues these would be dealt with under the Terms and Conditions of the contract.

Therefore in consideration of my Business model the imposition of CCTV installation would be clearly DISPROPORTIONATE to any potential risk to Public and Driver safety and I hope this could be included within the discretionary exemption granted to me.

4. I have discussed your proposals with the Principals of those companies with which I have contracts and the unanimous feedback is that were CCTV installations to be imposed upon my vehicles they would cease to use my Company or any other vehicles with this equipment installed and instead utilise alternative Sub-Contractors licensed by authorities whom have not adopted this policy. I have explained the Technical Specification which allows the audio recording to be switched off and deactivated by them but they are adamant they will not permit video recordings either.

Their reasons are that during journeys often for many hours travelling to business meetings around the Country or to and from Airports, confidential business documents and correspondence could conceivably be viewed and recorded when working in the Car and they would not agree to this confidential data being recorded or stored.

Those companies are prepared to provide written substantiation of the above. Indeed one of my Clients whom are a Global Company do not permit the installation

of CCTV within their buildings as a company policy for the reasons stated and also in compliance with the recent GDPR regulations introduced.

Therefore I believe there is an obligation to take into account the rights, policies and consequences of CCTV installation may have upon all parties in compliance with the Information Commissioners policy guidance and also to take account of loss of Business or Trade.

My fear though is that the proposed change in Policy will be implemented as a Mandatory requirement for everyone without giving due consideration to all those affected, indeed Mr John Ruder has recently expressed the view to one of my colleagues that Directors of Companies, CEO's, VIP's and overseas Business visitors should not be an exception and cites the example of CCTV installed in Buses, Trains, Aircraft, High Streets etc.

He seems not to understand that the term "Private Hire" is the facility for the Public or Business Man to be transported in complete privacy without the intrusive recording and storage of close up personal or sensitive data for which they choose to pay a premium.

5. This would seem to be implied by the tone of the recent correspondence issued by the Licensing Team in the statement "you should read this because it may affect your Business or Job" indicates that the Committee may impose this new policy irrespective of the cause and effect it may have upon the livelihood of Licence Holders and Operators. This echoes a comment made by John Ruder at a meeting of the Licensing Committee in March at the Town Hall when he stated that his only interest was for Public Safety and he held no interest for the impact upon Licence Holders Business or Jobs as a consequences of amendments to the Licensing Policy.

For this reason I have consulted another of my contracted Clients whom are a Company of Solicitors and Barristers. They have advised me that whilst CBC has the authority under the Licensing and Police act to implement such policy that if it is imposed retrospectively on existing Licence Holders and they suffer loss and expense as a consequence then CBC may be held liable for such costs and Legal actions for recovery could be instigated.

6. At the meeting of the Licensing Committee in March this year when amendments to the Licensing Policy were passed by the Council Members a limited no of Licence Holders were allowed to attend but were only allowed 3 minutes to make representations regarding the proposed changes with no right of redress to the Teams response. This was the most inflexible, autocratic and inconsiderate meetings I have ever intended and it was clear that the Committee had already decided the outcome and were only ticking the box by inviting us.

I have understood from a third Party that a meeting has been convened on the 18th November with the Licensing Committee to which members of some of some of the Principal Taxi Operators and Hackney Carriage Drivers have been invited to discuss their various views but whilst I accept that not all of the Independent Operators would

logistically be able to attend we have not received any invitation and are therefore unrepresented.

Therefore I suggest that it would be in the interests of everyone involved including representative members of the public to convene a meaningful meeting with the Licensing Committee and selected representatives of Operators, Private Hire and Taxis drivers to discuss the many differing views and concerns of the Public, Licence holders and all affected by this proposed Policy to give due consideration to the Legal and Technical aspects, cause and effects, Safety benefits and or consequences in order reach a considered, pragmatic and acceptable resolution to a very important and sensitive matter.

I also believe the Local Press should be invited to witness that there is fair representation, consideration and discussion and not a "fait accomplis" presented.

To the Licensing Department.

I am writing to object to the forced introduction of CCTV onto the Colchester Taxi/Private Hire trade. The main reason being cost. In this time of austerity and the Council themselves always telling us they have had to make cuts here and cuts there, closing this department etc etc. Then there trying to force the trade to pay out over 3/4 of a million pounds (£780,000) on these systems, with an unknown on going cost as well.

Charles Isbill Hackney carriage plate 54.

Chairman of Hackney carriage association.

I wish to object to the following of the new taxi policy:

CCTV

Reasons of objection

1 taxi policy page 112 1.3

To assist insurance companies in relation to motoring claims

I don't agree insurance companies having the right to access the cctv system. Most drivers already have dash cameras for this. I would suggest this needs to be removed.

2 page 115 7.3

Members of the public may make a request for the disclosure of cctv data. What right have the public to access to the cctv data in our cars, only taxi licensing and police need to access it.

Other objections

I would like to object on the fact the cctv is being made compulsory/mandatory. I think it's wrong we are being forced to have cctv.

I would like to object on the price of the cctv. £300-£600 is quite a lot and still only estimated, due to the high spec I can see the price being a lot higher, also to raise, this isn't just a one of payment, there are fees for repairs, damages, change to another vehicle. Another big expense to our costs/overheads.

Questions and situations I think it will raise.

People with learning difficulties, eg children on school runs, will press the audio button stated in the spec.

Children's parents might request cctv to be turned off, while in the car or a school run, I think they have that right.

A drunk passenger might request for the cctv to be turned off, even though it states it's legal, they won't care and create a bigger argument, also they can mute the audio before they get aggressive.

Transport For London. Have a cctv specification for there drivers to have in there cars, but it's not compulsory to have, I think we should adopt this idea.

Hi

Further to our meeting at the town hall regarding cctv, we were asked to go away and find a better quote to beat £300-£600 for the cctv system. I have been in contact with a cctv company in stanway, and they have been happy to quote me a price for the full specification. The price they've quoted is £1000-£1200. I will forward the estimate to you, with the email sent to me.

Thanks for contacting us regarding the potential requirements for taxis in the Colchester area requiring CCTV systems by the local council. We had been contacted back in June with a very similar specification and had explored the requirements and associated costs for this type of system. Based on the specification sheets and the time required for the work we would estimate a total cost per vehicle of £1000 - £1200 for the supply and installation of the hardware.

These prices are only approximate and could change depending on final specs and requirements.

I would like to object to the fact we can not buy and install our own Cctv at a much lower cost to us.

Hi,

I have been a taxi driver for last seven years and never had cctv in my cars and never felt uncomfortable .

I am objecting this cctv enforcement simply for the cost and the complication its going to course to us.

Dear Sir/Madam,

Thank you for your letter dated 10th September 2018 and the link to the licensing policy conditions dated 29th August 2018.

I do not have CCTV in my vehicle and I don't have any plans to install it in the future.

I have been working as a licensed hackney carriage driver in Colchester for the last 23 years. This has for the most part been during the day time only.

During this time and to the best of my knowledge the only vulnerable persons who have travelled with me have been children with special needs. These passengers have always been accompanied by an adult who is qualified look after and deal with any needs that they may require.

I have not in this time been the victim of or the perpetrator of any crimes. I would be grateful to know why it is now that the licensing team are considering this policy. Are more crimes being reported? Are there reports of drivers abusing their position? Are there more vulnerable people within the borough? CCTV has been available for many years, is there now a greater need to protect the public travelling in taxis and those that drive them than there was in the past? Is it proposed that CCTV is to be introduced in other forms of public transport within the borough?

Is the proposed CCTV to record both video and audio?

The hackney carriage trade has seen exponential increases in both fixed and variable costs in recent years and the implementation of CCTV would add to this if drivers and operators are expected to meet the costs. Who would meet the cost of the installation and maintenance of CCTV?

I feel that CCTV in my vehicle would be a privacy invasion both to me and my passengers.

I do not wish to have CCTV installed in my vehicle. However I would not object to it being implemented on a voluntary basis if passengers are made aware of it and it doesn't involve any cost to individual drivers or operators involved in transportation.

Air quality

We would like to see far stronger controls on idling by diesel and petrol cabs. Idling at any taxi rank or while waiting to pick up passengers at the roadside should be prohibited. Infringements should be dealt with at the next licence review, with loss of licence a possibility for repeat offenders. The ban on idling should apply to all areas, not just air quality management areas.

Good driving

Observation at the roadside and personal use of cabs suggest that some drivers exceed the speed limit, endangering cyclists and pedestrians and increasing subjective danger, so impinging upon people's desire to cycle and walk. We would welcome CBC giving consideration to compulsory [telematics insurance](#) for all hackney and private hire vehicles, with a deadline for compliance of January 1 2021. Such policies reward better driving with lower premiums and there is now a sufficient range of companies offering telematics to make quotes competitive.

Electric vehicles

We do not know if Colchester has a date in mind for the introduction of an electric cab fleet. Since January 1, all new black cabs in London have had [to be electric](#) or capable of producing zero emissions. We would encourage Colchester to set a date for the compulsory use of electric or hybrid hackney and private hire vehicles.

Bus gates

Cabs can currently use nearly all bus lanes and bus gates in Colchester. With the advent of the new Transport for Colchester, we would welcome a review on a site-by-site basis. We are aware, for instance, that cabs use Mile End Road northbound rather than the Northern Approaches to avoid the traffic lights and delays at the station junction.

Training

Cab drivers are generally safe around cyclists but we would welcome even greater awareness. All new cab drivers should have a stage 2/3 Bikeability course as part of gaining their licence, and all current drivers should attend a course before January 1

2021. All drivers should also be informed of police initiatives to help cyclists, including the Stay Wider of the Rider initiative to reduce close passing.

Colchester Cycling Campaign
October 2018

To the Licensing Team:

This feedback is in response to a letter I have received dated 10th September 2018 headed 'Hackney Carriage and Private Hire Licensing - Policy Consultation and General Information' and in particular in relation to the Licensing Committee discussing its policy in relation to CCTV.

I'll keep this short as I can. As proprietor of my Executive Private Hire company, 'Ward Executive Cars', with whom I am licensed with Colchester Borough Council operating with two executive Mercedes vehicles, I would emphatically state that:

- * I do not need CCTV in either of my vehicles

- * I do not require CCTV in either of my vehicles

- * and even more importantly, my customers certainly do not wish to have CCTV installed and operating in either of my vehicles whilst I am transporting them on their journeys.

I have been operating as Ward Executive Cars for the last 13 years and the vast majority of my clients are regular customers, many of whom I have been driving for numerous years. I have recently taken the opportunity of explaining to customers why the Council are looking at implementing this proposal and the reasons behind it and no one that I have spoken to would wish to be recorded in the car by a CCTV system, either visually OR audibly and they feel that it would be an invasion of their privacy if this plan were to go ahead. As examples, a few days ago, I collected a regular customer from Heathrow Airport and the lady engaged in 2 separate business calls during the journey amounting to over an hour in time and because of the nature and the content of the calls, which also involved handling important and private and confidential paperwork, she emphasized that she would have been completely against the use of CCTV equipment being used during the journey because of the highly private and confidential business she was conducting.

Also, yesterday, I transported a customer on a two hour journey in which he spoke to representatives from two Daily Newspapers regarding the nature of his business and referring to official private and confidential paperwork he was handling within the car and under no circumstances would he have wished for CCTV to be operating in the car, either visually or audibly, for the same reason as stated above, the highly private and confidential business he was involved with.

Whilst I can see the benefit of normal local taxi companies possibly using CCTV for their journeys, often taking people they have not driven previously on probably very short journeys and the respective drivers feeling vulnerable with certain people in the car on certain occasions, I cannot possibly see any benefit for a Private Hire company such as mine, as I do NOT feel vulnerable with anyone I drive as I provide executive transport to customers who use my service time and time again and engage in important phone calls and also conversations with fellow colleagues within the vehicle environment.

In addition to the above, there's also the cost element of having a system installed and also uninstalled when selling or changing the vehicle. I understand that an installation cost amounting to hundreds of pounds would be required. I would emphasize that even if the system and its installation was COMPLETELY funded by Colchester Borough Council, I would still NOT wish to have a CCTV system in either of my vehicles.

Since I received the letter in the middle of September, I've given myself time to consider the situation before replying, but now want to convey my strong views to the Licensing Committee.

I am totally against the idea of having CCTV installed and in use in my vehicles. My customers are of the same opinion and have also mentioned should such a plan be implemented, they would unfortunately have no alternative but to source a Private Hire Operator in a different Licensing area for all their travel requirements, one that does not facilitate the use of CCTV in vehicles licensed with them.

If this situation occurred and I were to lose my client base, this would obviously have a severely damaging effect on my financial situation and income and would result in me ceasing to trade, thereby losing my livelihood.

In the circumstances, I would urge the Licensing Committee to consider the position after receiving my and other comments, observations and representations regarding this matter.

I would like to register my objection to the imposition of CCTV for all Hackney Carriages.

Whilst I accept there are advantages to having CCTV, if a driver would feel safer for example then fine, they should be able to have it, but why does it have to be compulsory?

Also why should we have to pay? It's not just the initial cost either, there will be maintenance of the system and more expense and time when transferring to a new vehicle.

I have been asking passengers for their comments and very few are fully OK with this invasion of their privacy.

Only a small minority of Licensing Authorities have such regulations so why do we need this huge expense to the trade in difficult economic times?

On Saturday the 15th at 11-45 am I was working on the rank at North station when a lady with her 9 year old son and 10 week old baby got into the back of my taxi and asked to go to the zoo , the baby was crying and I asked if the baby was hungry and the lady said she had fed her on the train but she was going to now feed her some more, I asked if she had made up some bottles for the day out and she replied I'm actually breast feeding her now to which I replied can I ask you a question, she said go ahead, I asked her how she would feel if I had CCTV in my vehicle to which she replied I would feel uncomfortable but I have to feed the baby or she would keep crying as she's still hungry, why should a paying passenger be made to feel uncomfortable.

Dear sir/Madame

I have held my colchester Taxi badge for around 13 years and have operated in both private hire and hackney carriage vehicles. I have not had CCTV installed in any of my taxis nor have I felt the need to as in my personal opinion I find Colchester and its surrounding areas a perfectly safe and friendly area to operate in. Where as I am aware of the POTENTIAL benefits of CCTV I also feel strongly (after speaking with many of my customers) that the installation of CCTV in all taxis/privat hire vehicles could dissuade people from using them especially with audio consented or not due to a feeling of invasion of privacy therefore having a negative impact on a already challenging trade.

If the decision was made to proceed with CCTV and after looking at the specification (which I find to be over the top and a invasion of my own personal privacy) that a fare pricing scheme should be put into place whether this be a subsidy from the council or monthly installments.

I will be scanning my night time economy review questionnaire to you.

Further to my previous submission dated 15th Oct 2018, I have received additional information which I would like to place before the Licensing Committee and Licensing Department regarding compulsory installation of CCTV in Taxis and Private Hire Vehicles.

In accordance with my Freedom of Information request (CBC reference 354942) I have been presented with partial figures which have allowed a rudimentary analysis

of the scale of the problem CBC is attempting to combat and I offer this analysis below.

In order to carry out this analysis I have been forced to use some averages which are based on my own knowledge of the industry.

These are

Average number of drivers council supplied figures). = 800 (slightly lower than

Average fare value. = £20 (possibly slightly high estimate).

Average required gross weekly take (per driver) =£1000 (pre expenses take).

To achieve the above take with the average fare it is obvious that each driver will be required to carry out 50 runs per week ($\text{£}1000/\text{£}20 = 50$).

Projecting this over a 52 week period the average total number of runs carried out by CBC registered Taxis and Private Hire vehicles per year is 2,080,000 ($50 \times 800 \times 52$).

Using these figures and the number of complains received (as supplied by CBC) we can see an average percentage of runs that have resulted in a complaint being registered.

These are

2015. 147 complaints = 0.00007%

2016. 108 complaints = 0.00005%

2017. 127 complaints = 0.00006%

For 2018 I have carried out the same calculation but have only used 39 weeks (Jan-Sept inclusive) as opposed to 52, that is, number of runs reduced to 1,560,000.

2018. 170 complaints = 0.00010%

These figures give the chance of anyone making a complaint about a journey in a CBC registered vehicle as

2015. 14,149 to 1.

2016. 19,264 to 1.

2017. 16,382 to 1.

2018. 9,176 to 1.

If we then look at the numbers of driving badges which have been revoked or suspended, which presumably reflects the numbers of 'serious' complaints, an even more ridiculous picture emerges.

Badges suspended or revoked as a percentage of total journeys undertaken.

2015. 7 badges suspended or revoked. = 0.000003%

2016. 2 badges suspended or revoked. = 0.0000009%

2017. 2 badges suspended or revoked. = 0.0000009%

2018. 6 badges suspended or revoked. = 0.000003%

A phrase often associated with number such as these is 'Statistically Insignificant'.

Although there has been no information forthcoming regarding who the council suggests the CCTV systems are purchased from, or who is to instal them and consequently we are unable to obtain proper quotes for costing purposes, I have heard 'guesstimates' of anything between £600 and £1000 per vehicle installation.

Using these figures and estimating that there are approximately 1000 Taxi and Private Hire Vehicles registered with CBC, it becomes obvious that the council is attempting to foist onto the licensed T&PHV drivers of the borough a collective initial spend of between £600,000 and £1,000,000 to solve a problem that statistically hardly exists.

This spend does not include ongoing costs such as transfer between vehicles when old stock is replaced nor the cost of making good the damage caused to the interiors of vehicles by the fitting of these systems.

I suggest that the proposed policy fails to meet the criteria laid down by the Information Commissioner for the UK, Elizabeth Denham, who states that CCTV should only be installed where their use is a 'proportionate response to the problem identified'.

Looking at the above figures and the potential costs involved I feel no sane and rational person could feel that this proposal, even without considering the impact on privacy and people's rights under current data collection regulations, can be justified as anything more than a council vanity policy, with private citizens and businesses footing the bill.

An interesting alternative question is 'If the council was paying for this proposal from public funds would it be passed by councillors'?

I feel that being forced to have CCTV installed in my taxi, is wrong for the following reasons:

It is another expense on the driver, which I feel is not needed

The system that you have specified will have to be custom built, and this is going to be very expensive.

As the passenger will be able to turn audio on and off, they will do so before they get abusive to the driver, this is wrong as most problems are verbal abuse and refusal to pay the fare.

The number of people being allowed to view/access the footage is too great, why should members of the public be allowed to request viewing of any images; it should be limited to those involved in any incident , ie police and licensing team.

It should be up to individual drivers if they wish to install CCTV in their vehicle: but it should meet with council specifications. This is what TFL have done with London black taxis.

Time off the road when changing taxis ,will incur loss of earnings, as it could take anything up to 4-5 days to have it removed from 1 vehicle and installed into another vehicle that you have purchased .

Circular letter completed by plates 2, 3, 5, 7-10, 12, 14-17, 19-21, 25, 28, 29, 33, 35, 37, 38, 41, 43- 48, 50, 51, 54-56, 58, 59, 62, 64-71, 73-75, 78, 79, 81-84, 88-93, 96-100, 102, 104, 106, 108, 109, 111, 113, 115, 117, 121, 123-125, 127, 128

I would like to register my objection to the introduction of compulsory CCTV in all Hackney Carriages.

Whilst I accept there can be advantages to having such a system, why does it have to be compulsory?

Is this not a sledgehammer to crack a nut situation? And is people trafficking in Colchester taxis really such a problem?

My objections are as follows:

1 Cost, Mr Ruder estimates that the council's procurement department should be able to obtain a "bulk purchase" discount price of £300 to £600, the majority of the cost is not the actual unit but labour fitting the wiring. This means it's not simply a one off fee but will re required individually, to transfer the system whenever the vehicle is replaced. He also said the cost is "down to the rade" but why should we be expected to pay for something we don't want?

2. What about law abiding citizens who, for all sorts of personal reasons don't wish to be on camera, shouldn't they have a choice?

3. What penalty will the driver face if he/she has forgotten to switch on the audio or the whole system on?

As we have seen from the recent case involving Ben Stokes (the England cricketer) CCTV evidence is certainly no guarantee of solving any problem.

Please give this matter some careful consideration before implementation.

Dear Sir /madam

I'm writing this letter because it has only recently been brought to my attention that the council want CCTV/Audio recording in their licensed vehicles. I was only made aware of this on Wednesday 22nd August.

I have not yet been told the specifications however I have been informed that the system will continue to record for a further two hours after the vehicle has been turned off, why? In the long run this will more than likely have an adverse effect on my stop/start vehicle, battery and alternator to name a few.

If there is such a problem in Colchester as Mr Ruder implies about people trespassing, why hasn't there been a local advertising campaign in respect to this.

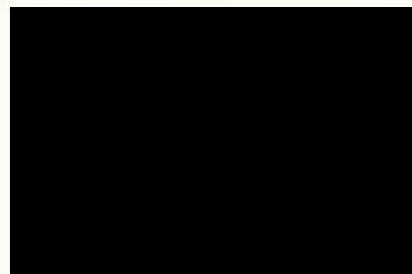
I myself was involved in an incident with an off-duty police officer, and CCTV/Audio would've helped if it was needed but thankfully it wasn't. Abuse of Power.

How would this be policed? Drivers continue to smoke in their vehicles, drivers wear non-appropriate footwear (Aip-props), drivers will wear non-tailored shirts and continue to wear football shirts, which I didn't realise was such a crime & is the reason behind having the system just to self-incriminate?

PTO

I've also heard that there will be an on/off button for the audio that customers can press if they feel that way inclined, why? Surely this defeats the purpose of having the system, so it'd be surprise to just have the CCTV.





19th September 2018

Licensing Manager
Environment
33 Sheepen Road
Colchester
CO3 9WG

Dear Licensing Team

I have recently been in touch with Jon Ruder regarding the proposed amendment to the Taxi policy for Colchester and he asked me to write a letter for the Team with my views regarding the compulsory installation of CCTV in all HC and PC vehicles.

I understand there will be a committee meeting in October and I would like to put forward my points regarding this matter.

In January 2019 I will be starting a new business in Colchester transferring the public to all Airports and ports.

I am writing to ask if there will be any exclusion regarding the installation of CCTV in all vehicles as I feel that as my vehicle will not be used for unknown clients therefore the risk of problems arising are very low.

Please see my reasons below:

All clients would have pre-booked their trip online and also paid online in advance therefore I would know who they are and where they live prior to their transfer.

As I will be an online business which will rely heavily on feedback on social media from my clients all feedback will need to be positive therefore I would behave in an appropriate manner at all times as I would not want any negative feedback to cause loss of business.

I cannot imagine that my clients would be drunk or cause problems during their trip or be inappropriate in any way.

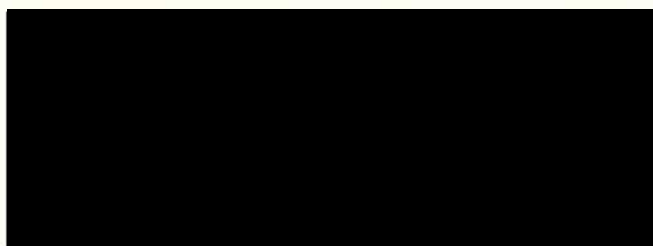
There will only be small amount of cash carried by myself for possible emergencies.

I will be transferring a lot of business clients who may be working during their journey who may feel uneasy about having their calls recorded this could have an impact on my bookings.

I will be using the vehicle for family and myself and would find an always-on system intrusive.

Thanks for you time.

Regards



Annex 2

Identified issue	Comment
Cost, including maintenance and transfer System Specification Installation and transfer Size of Unit and fitting	Final costings are difficult to obtain until the exact specification of the CCTV required is known. Once the position of the ICO is known a final specification can be determined and costed. The specification is likely to have a bearing on ease of fitting and associated costs.
Being observed	There is no intention, nor ability legally, to obtain and view footage without a specific purpose. The Council will only be seeking to view footage where it has been identified in advance there is a legitimate reason to do so.
Customers not wanting a CCTV system to be used	We haven't received any direct views on the issue of CCTV from members of the public.
Forgetting to turn on the system	Whilst the points system will be amended to include points for failing to use the system, each case will be considered on its own merits.
Access to the data	Drivers will have no access to the data; if they do have access they may become data controllers with inherent responsibilities.
Exemptions for executive vehicles	There is no intention, nor ability legally, to obtain and view footage without a specific purpose. The Council will only be seeking to view footage where it has been identified in advance there is a legitimate reason to do so.
Recording of vulnerable persons	Drivers will not be able to access the data and there will be no ability to view it unless in the investigation of a complaint.

	The views of Essex County Council have been sought as they are responsible for school contracts.
Disproportionate to Risk	The Council does not believe it is disproportionate to the risk but it is mindful of the requirements of the ICO and therefore its views will be sought on any proposed introduction of CCTV.
Dislike the compulsory requirement	For the protection of drivers and the general public CCTV needs to be in all vehicles.
Ownership of data	As data controller the Council would own and be responsible for the data.
Cessation of recording if the car is used for private journeys	Recording will not be required for private journeys.
Camera viewpoints for larger vehicles	This will need to be investigated when a final specification is approved.
Use of panic button may make worse an already tense situation	Drivers must make safe decisions which may mean not using CCTV in certain situations.
CCTV linked to meter	To be investigated as part of the system specification.
Operators to be able to deal with complaints by viewing footage	This has implications under GDPR which require further investigation.
Will CCTV be required in temporary replacement vehicles?	No

Report of	Licensing, Food and Safety Manager	Author	Jon Ruder
Title	Gambling Policy		282840
Wards affected	All wards		

1. Decision Required

- 1.1 The Committee is asked to approve the Gambling Policy following the end of the consultation period.

2. Recommended Decision

- 2.1 To agree the draft Policy and propose its adoption to full Council on 6 December 2018.

3. Reason for Recommended Decision

- 3.1 The Council has consulted on the draft gambling policy for implementation with effect from 31 January 2019. No representations have been received.

4. Alternative Options

- 4.1 There is no alternative option; the Policy must be reviewed and readopted in order to be compliant with current legislation.

5. Detailed Considerations

- 5.1 The Gambling Act 2005 places a statutory responsibility on all Local Authorities to be responsible for the issuing of various permissions, permits and notices relating to the use of premises for gambling activities.
- 5.2 The Council is required by law to formulate its own Gambling Licensing Policy Statement which must be reviewed and republished every three years. The reviewed policy sets out the principles that the Council, as licensing authority, will generally apply to promote the licensing objectives when making decisions on applications for licences made under the Act for the period the policy is in force.
- 5.3 The consultation period on the new draft policy, attached at Annex 1, ended on 4 November 2018 and no representations were received.

6. Equality, Diversity and Human Rights implications

- 6.1 The draft Policy has been developed in accordance with and taken account of, all relevant legislation and national and local strategies.

7. Strategic Plan References

- 7.1 This Policy aims to contribute to the Council's strategic plan through the efficient and effective regulation of gambling premises thereby ensuring that the local risks identified.

8. Publicity Considerations

- 8.1 The draft revised policy was the subject of an extensive consultation process. A copy of the finalised policy will be placed on the Council's website.

9. Financial Implications

- 9.1 There may be costs incurred in defending any action brought against the Council which seeks to judicially review the policy. However, having consulted extensively it is thought such a challenge is unlikely.

10. Community Safety Implications

- 10.1 The Policy, through the creation of the Local Area Profile, identifies local risks including community safety and public health implications.

11. Health and Safety Implications

- 11.1 There is no known direct health and safety issues which might arise from the adoption of the revised Policy.

12. Risk Management Implications

- 12.1 A flexible yet robust revised Policy will continue to provide both the Council with a sound basis for decision making.



GAMBLING LICENSING POLICY STATEMENT

2019-2022

Colchester Borough Council

31 January 2019

Contents

ITEM	PAGE
Foreword	5
Part A - Introduction	
2. Declaration	6
3. The Licensing Objectives	6
4. Strategic Plan	6
5. Description of the District	7
6. Responsibilities under the Act	7
7. Statement of Licensing Policy	8
8. Consultation	8
9. Approval of the Policy	9
10. Responsible Authorities	9
11. Interested Parties	10
12. Exchange of Information	11
13. Public Register	11
14. Compliance and Enforcement	11
15. Delegation of Powers	13
16. Definitions	13
17. Fees	13
18. Useful Contacts	13
Part B – Premises Licences	
1. General Principles	14
2. Definition of Premises	14
3. Demand	15
4. Location	15
5. Local Area Profile	17
6. Duplication with other Regulatory Regimes	17
7. The Licensing Objectives	17

8.	Conditions	18
9.	Plans	19
10.	Credit	20
11.	Betting Machines	20
12.	Provisional Statements	20
13.	Reviews	20
14.	Adult Gaming Centre	21
15.	Licensed Family Entertainment Centre	21
16.	Casinos	22
17	Bingo Premises	22
18	Betting Premises	23
19	Tracks	24
20.	Travelling Fairs	24

Part C – Permits

2.	Unlicensed Family Entertainment Centre Gaming Machine Permits	25
3.	(Alcohol) Licensing Premises Gaming Machine Permits	25
4.	Prize Gaming Permits	26
5.	Club Gaming and Club Machine Permits	27

Part D – Occasional and Temporary Permission

1.	Temporary Use Notices	28
2.	Occasional Use Notices	28
3.	Small Society Lotteries	28

Annexes

A: List of Consultees

B: Responsible Authorities

C: Definitions and Glossary of Terms

D: Map of Colchester

E: Local Area Risk Assessment Example Template

FOREWORD

Welcome to the latest review of the Council's Licensing Policy for Gambling. The policy sets out how the Council will regulate gambling activities within the Borough.

Whilst for the majority of the general public gambling is an enjoyable and often social experience, it is for some individuals a largely hidden addiction which taken to excess has an adverse impact on their finances, health, wellbeing and relationships.

The wellbeing of our residents is a key priority for the Council and the Gambling Policy has a role to play in supporting this priority through its control of gambling premises. To this end the revised policy requires all gambling premises and new applicants to have appropriate risk assessments in place for all their activities. To assist in the completion of these risk assessments the Council has drawn up a local area profile which provides a comprehensive assessment of local risks.

We hope that the new revised policy is clear and easily understood and that the local area profile will be of significant use to the Council, its partners and operators when considering gambling matters.

Mike Lilley

Portfolio Holder for Planning, Public Safety and Licensing

PART A – INTRODUCTION

- 1.1 This Statement of Licensing Policy sets out the principles by which the Council, as the Licensing Authority (referred to in this document as ‘the Licensing Authority’) under the Gambling Act 2005 (referred to in this document as ‘the Act’), intends to apply in discharging its functions to license premises for gambling under the Act as well as:-

- designating the body responsible for advising the Authority on the protection of children from harm;
- determining whether or not a person is an “Interested Party”;
- exchanging information with the Gambling Commission and others; and
- inspecting premises and instituting proceedings for offences under the Act.

2. Declaration

- 2.1 In this Policy the Licensing Authority declares that it has had regard to the licensing objectives, formal Guidance issued to Licensing Authorities and any responses received during the consultation process, and will adopt the Principles of Better Regulation.
- 2.2 Appendices and information relating to this statement providing further information and guidance are intended only to assist readers, and should not be interpreted as legal advice or as part of the Council's policy. Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Gambling Act 2005, or the Guidance or regulations issued under the Act.

3. The Licensing Objectives

- 3.1 In exercising most of its functions under the Act, the Licensing Authority must have regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:-
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - Ensuring that gambling is conducted in a fair and open way; and
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

4. Strategic Plan

- 4.1 The Council's strategic plan is the overarching strategy for the Borough setting out the direction and potential for the Borough and integrating social, economic and environmental strategies. The Council's focus is on -

- **Growth** – Ensuring all residents benefit from the growth of the borough
- **Responsibility** – Encouraging everyone to do their bit in making our Borough even better
- **Opportunity** – Promoting and Improving Colchester and its environment
- **Wellbeing** – Making Colchester an even better place to live and supporting those who need the most help.

- 4.2 This Policy aims to contribute to this vision through the efficient and effective regulation of gambling premises thereby ensuring that the local risks identified are addressed.

5. Description of the District

- 5.1 Colchester is Britain's oldest recorded town. It was the administrative centre of Roman Britain and has a heritage of national importance dating back over 2000 years. The modern borough of Colchester has a thriving town centre with a vibrant and diverse night-time economy, attractive villages and important natural landscapes. Because of its strategic position and the availability of brownfield sites it has, in recent years, seen considerable growth and is now one of the fastest growing towns in the Country; the existence of the Garrison and University contribute to the overall diversity of the area.
- 5.2 The town is strategically positioned just 45 minutes away by road from London's third airport at Stansted and is close to the Haven Ports of Harwich International and Felixstowe. With excellent rail links to London and the A12/M25 road networks so accessible, Colchester is close enough to London to provide good business opportunities at an economic rate. Colchester is the natural centre for the surrounding rural areas of north Essex, south Suffolk and beyond.
- 5.3 The number of licensed premises under the Act has fallen by a third since its introduction. The last two years have seen some small growth in the adult gaming centre with the opening of two new premises.
- 5.4 A map of the Borough can be found at www.colchester.gov.uk/licensing

6. Responsibilities under the Act

- 6.1 The Act introduced a licensing regime for commercial gambling, to be operated by the Gambling Commission and/or by Licensing Authorities, depending on the matter to be licensed.
- 6.2 The Council is the Licensing Authority for the Borough of Colchester and its responsibilities must be discharged by a Licensing Committee created under Section 6 of the Licensing Act 2003.
- 6.3 The Gambling Commission is responsible for issuing operating and personal licences to persons and organisations who:-

- operate a casino;
- provide facilities for playing bingo or for pool betting;
- provide betting or act as intermediaries for betting;
- make gaming machines available for use in Adult Gaming Centres and licensed Family Entertainment Centres;
- manufacture, supply, install, adapt, maintain or repair gaming machines;
- manufacture, supply, install or adapt gambling machine software; or
- promote a lottery.

6.4 The Council as the Licensing Authority is responsible for licensing premises in which gambling takes place. All types of gambling are included, other than spread betting (regulated by the Financial Services Authority) and the National Lottery (regulated by the National Lottery Commission). It is responsible for issuing permits for premises with gaming machines and for receiving notices from operators wishing to use unlicensed premises for gambling on a temporary basis. It is also responsible for the registration of certain types of exempt small society lotteries.

6.5 The Council cannot become involved in the moral issues relating to gambling and must aim to permit the use of premises for gambling in so far as it thinks it is:-

- in accordance with any relevant Codes of Practice under Section 24 of the Act;
- in accordance with any relevant Guidance issued by the Gambling Commission under Section 25;
- reasonably consistent with the licensing objectives (Subject to paragraphs a and b above, and
- in accordance with the Council's Statement of Licensing Policy (subject to paragraphs a and c above.

6.6 Before the Licensing Authority can consider an application for a premises licence, an operating licence and a personal licence must have been obtained from the Gambling Commission.

7. Statement of Licensing Policy

7.1 The Licensing Authority is required by the Act to publish a Statement of Licensing Policy every three years. This Policy must be reviewed from 'time to time' and any proposed amendments and/or additions must be subject to fresh consultation. The 'new' Policy must then be published.

7.2 This Policy takes effect on 31 January 2019 and replaces the Policy previously in force.

8. Consultation

8.1 In producing this Policy, the Council consulted with those bodies listed in Annex A, the statutory consultees, local groups and other interested parties. In particular it

consulted with those organisations working with people who are problem gamblers; the Citizens Advice Bureau and Public Health.

8.2 The Act requires that the following parties are consulted by the Licensing Authority:-

- the Chief Officer of Police for the Authority's area;
- one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
- one or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.

8.3 The consultation will take place between 8 October and 4 November 2018.

9. Approval of the Policy

9.1 This Policy will be approved by full Council on 12 December 2018. This Policy takes effect on 31 January 2019.

9.2 It should be noted that this Policy does not override the right of any person to make an application, to make representations about an application, or to apply for a review of a licence; each case will be considered entirely on its own individual merits and in accordance with the requirements of the Act

10. Responsible Authorities

10.1 A full list of the Responsible Authorities designated under the Act and their contact details are given on the Council's website and attached at Annex B. It should be noted that, under the Act, the Licensing Authority is designated as a Responsible Authority.

10.2 The Licensing Authority is required to designate, in writing, a body that is competent to advise it about the protection of children from harm. In making this designation the following principles have been applied:-

- the competency of the body to advise the Licensing Authority;
- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area; and
- the need for the body to be answerable to democratically elected persons rather than any particular invested interest group etc.

10.3 In accordance with the Gambling Commission's Guidance to Local Authorities, the Council has designated the Essex County Council Children's Safeguarding Service for this purpose.

11. Interested Parties

11.1 Interested Parties can make representations about licensing applications or apply for a review of an existing licence. An Interested Party is defined in the Act as follows:-

'... a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person

- lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- has business interests that might be affected by the authorised activities,
- represents persons who satisfy paragraphs (a) or (b)'.

11.2 Interested parties can be persons who are democratically elected, such as Borough, Town and Parish Councillors and MPs. They can also be trade associations, trade unions, residents' associations and tenants' associations. Providing these people represent those living or having business interests in the area which might be affected, no specific evidence of authorization is required.

11.3 Colchester Borough Councillors, who are members of the Licensing Committee, may also qualify to act as an 'interested party'. In order to resolve any potential conflict of interest, these members will not be eligible to sit on a Sub-Committee to determine an application for any premises within their own Ward. However, a Member of the Licensing Committee or any other Ward Councillor with a prejudicial interest in an application although not permitted to sit on a Licensing Sub Committee, may appear before it to make a representation in the capacity of an 'Interested Party'.

11.4 Other than persons mentioned in paragraphs above, the Licensing Authority will generally require some form of written confirmation that a person is authorised to represent an interested party.

11.5 In determining whether a person lives or has business interests sufficiently close to the premises, that they are likely to be affected by the authorised activities, the Licensing Authority will consider the following factors:-

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment);
- the circumstances of the complaint. This does not mean the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises;
- the catchment area of the premises (i.e. how far people travel to visit); and
- whether the person making the representation has business interests in that catchment area that might be affected.

11.6 The Licensing Authority will decide if a representation made in respect of an application is valid based on the following factors:

- It is not frivolous or vexatious.
- It raises issues that relate to Guidance issued by the Gambling Commission.
- It raises issues that relate to this policy.
- It relates to the licensing objectives.

12. Exchange of Information

12.1 In its exchange of information with parties listed in Schedule 6 of the Act, the Licensing Authority will have regard to:-

- the provisions of the Act, which include the provision that the Data Protection Act 1998 and the **General Data Protection Regulation 2016** will not be contravened;
- the Guidance issued by the Gambling Commission;
- relevant Legislation and Regulations

12.2 In accordance with Section 350 of the Gambling Act 2005, the Licensing Authority may exchange information with the following statutory bodies or individuals:

- A constable or police force
- An enforcement officer
- A licensing authority
- Her Majesty's Revenue and Customs
- The Gambling Appeal Tribunal
- The Secretary of State
- Scottish Ministers
- Any other person or body designated by the Secretary of State in accordance with the Act.

12.3 The Licensing Authority may also exchange information provided by applicants with law enforcement agencies for purposes connected with the prevention and detection of crime, but we will only share any personal details for this purpose **if** required to do so by law.

13. Public Register

13.1 The Licensing Authority is required to keep a public register and share information in it with the Gambling Commission and others. Regulations prescribe what information should be kept in the register. Copies of the register may be obtained on payment of a fee.

14. Compliance and Enforcement

14.1 In exercising its functions with regard to the inspection of premises and to instituting criminal proceedings in respect of offences specified, the Council will follow best

practice. This requires that actions should be

Proportionate – Intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.

Accountable – The Authority must be able to justify decisions and be subject to public scrutiny.

Consistent – Rules and standards must be joined up and implemented fairly.

Transparent – Enforcement should be open and regulations kept simple and user friendly.

Targeted – Enforcement should be focused on the problems and minimise side effects.

- 14.2 The Council will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and adopt a risk based inspection programme. All enforcement action is taken having regard to the Regulatory Services Enforcement policy.
- 14.3 The main enforcement and compliance role of the Licensing Authority in terms of the Act, is to ensure compliance with the Premises Licence and other permissions which it authorises. The Gambling Commission is the enforcement body for Operating and Personal Licences. Concerns about the manufacture, supply or repair of gaming machines are not dealt with by the Council but will be notified to the Gambling Commission.
- 14.4 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities, and will have regard to best practice.
- 14.5 Where appropriate, complaints will be investigated in accordance with the stepped approach outlined in the Colchester Borough's Enforcement Policy. A copy of this document is available on the Council website. In the first instance we encourage complaints to be raised directly with the licensee or business concerned.
- 14.6 As part of its ongoing inspection regime, The Council may carry out test purchasing to ascertain if a licensee has robust policies in place to prevent underage gambling. Operators will always be advised of the outcome of the test. Where operators carry out their own test purchasing, The Licensing Authority expect to be advised of the results. Should the results show a failure then the Licensing Authority will, in the first instance, work with the operator to review and improve their policies and procedures.**
- 14.7 Where there is a Primary Authority Scheme in place, the Licensing Authority will seek guidance from the Primary Authority before taking any enforcement action on matters covered by that scheme. At the time of the publication of this policy there were four Primary Authority arrangements with host local authorities:

Coral - London Borough of Newham
Ladbrokes - Milton Keynes
Paddy Power - Reading
William Hill - City of Westminster

15. Delegation of Powers

- 15.1 The Licensing Authority has agreed a scheme of delegation for discharging its functions under the Act.

16. Definitions

- 16.1 See Annex C.

17. Fees

- 17.1 Non statutory fees are reviewed by the Licensing Authority on an annual basis in accordance with the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007. Details of current fees can be obtained by contacting licensing.team@colchester.gov.uk or alternatively by viewing the Council's Website www.colchester.gov.uk

18. Useful Contacts

- 18.1 The Gambling Commission maintains a list of useful contacts on organisations involved in gambling and their contact details can be found on the Commission's website www.gamblingcommission.gov.uk some of these organisations provide codes of practice on their particular interest area.

PART B – PREMISES LICENCES

1. General Principles

- 1.1 Premises Licences are subject to the permissions/restrictions set out in the Act as well as the specific mandatory and default conditions detailed in Regulations issued by the Secretary of State. The Licensing Authority is able to exclude default conditions and also attach others, where it is thought appropriate.
- 1.2 In accordance with section 150 of the Act, premises licences can authorise the provision of facilities on:
 - casino premises
 - bingo premises
 - betting premises, including tracks and premises used by betting intermediaries
 - adult gaming centre premises (for category B3, B4, C and D machines)
 - family entertainment centre premises (for category C and D machines) (note that, separate to this category, the licensing authority may issue a family entertainment centre gaming machine permit, which authorises the use of category D machines only).
- 1.3 Each case will be decided on its merits, and will depend upon the type of gambling that is proposed, as well as taking into account how the applicant proposes that the Licensing Objective concerns can be overcome.
- 1.4 The Licensing Authority is required by the Act, in making decisions about Premises Licences, to permit the use of premises for gambling so far as it thinks it:-
 - a) in accordance with any relevant Code of Practice under Section 24 of the Act;
 - b) in accordance with any relevant Guidance issued by the Gambling Commission under Section 25;
 - c) reasonably consistent with the Licensing objectives (Subject to paragraphs a) and b))and
 - d) in accordance with the Licensing Authority's Statement of Licensing Policy (subject to paragraphs a) and c)).

2. Definition of Premises

- 2.1 In the Act 'premises' is defined as including 'any place'. It is for the Licensing Authority (having due regard for the Gambling Commission Guidance) to determine on the merits of each application whether different parts of a building can be regarded properly as separate premises.

- 2.2 The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

3. Demand

- 3.1 Demand is a commercial consideration and is not an issue for the Licensing Authority.

4. Location

- 4.1 Location will only be a material consideration in the context of the licensing objectives.
- 4.2 **The Act is clear that demand issues (e.g. the likely demand or need for gambling facilities in an area) cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The Licensing Authority will pay particular attention to the objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.**
- 4.3 **In order for location to be considered, the Licensing Authority will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives. From 6 April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, that licensees assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.**
- 4.4 **The LCCP also states that licensees must review (and update as necessary) their local risk assessments:**
- a) to take account of significant changes in local circumstance, including those identified in this policy;**
 - b) when there are significant changes at a licensee's premises that may affect their mitigation of local risks;**
 - c) when applying for a variation of a premises licence; and**
 - d) in any case, undertake a local risk assessment when applying for a new premises licence.**
- 4.5 **The Licensing Authority expects the local risk assessment to consider as a minimum:**
- whether the premises is in an area of deprivation**

- whether the premises is in an area subject to high levels of crime and/or disorder
- the ethnic profile of residents in the area, and how game rules, self-exclusion leaflets etc. are communicated to those groups
- the demographics of the area in relation to vulnerable groups
- the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather

4.6 In every case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.

4.7 Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.
- The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide betting machines.

4.8 The Licensing Authority expects all licensed premises' to have their local area risk assessment available on site for inspection by an authorised officer at all times when they are trading.

4.9 Such information may be used to inform the decision the Council makes about whether to grant a licence, to grant a licence with special conditions or to refuse an application.

4.10 This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

5. Local Area Profile

- 5.1 Each locality has its own character and challenges. In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete their risk assessment, the Licensing Authority has published a local area profile (LAP). The LAP is published as a separate document to this policy and does not form part of it. The LAP may be reviewed by the Licensing Authority at any time. Such a review would not constitute a review of this Policy.
- 5.2 The LAP should be given careful consideration when making an application. Applicants may be asked to attend a meeting with licensing officers to discuss the LAP and assessment, appropriate measures to mitigate risk in the area and how they might be relevant to their application. The local area profile will be presented to any subsequent Licensing Sub-Committee when they determine an application that has received representations. The LAP should not be taken as the definitive overview of a particular area and applicants are encouraged to use their own local knowledge in addition to the content of the LAP to inform their local risk assessments.
- 5.3 The Licensing Authority recognises that it cannot insist on applicants using the local area profiles when completing their risk assessments. However, an applicant who decides to disregard the LAP should be alert to the risk that they may face additional representations and the expense of a hearing as a result. A template of a suggested local risk assessment form for is included at Annex E. Applicants and licence holders may use this template or create their own.

6. Duplication with other Regulatory Regimes

- 6.1 Duplication with other statutory/regulatory regimes will be avoided where possible. The Licensing Authority will not consider whether a licence application is likely to be granted Planning Permission or Building Control consent.

7. The Licensing Objectives

- 7.1 Premises Licences granted must be reasonably consistent with the three Licensing objectives. With regard to these Objectives, the following will be considered:-

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime**

The Licensing Authority is aware that there is a distinction between disorder and nuisance and that the prevention of nuisance is not a Licensing Objective under the Act.

Whilst the Licensing Authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime, it will pay attention to the proposed location of gambling premises in terms of this Licensing Objective.

Where an area has known high levels of organised crime, the Licensing Authority will consider carefully whether gambling premises are suitable to be located there and the need for conditions, such as the provision of Door Supervisors.

- **Ensuring that gambling is conducted in a fair and open way**

The Gambling Commission does not generally expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way. However, the Licensing Authority will familiarise itself with operator licence conditions and will communicate any concerns to the Gambling Commission about misleading advertising or any absence of required game rules or other matters as set out in the Gambling Commission's Licence Conditions and Code of Practice.

- **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

In practice, the Objective of protecting children from being harmed or exploited by gambling often means preventing them from taking part in, or being in close proximity to, gambling.

There is no definition of the term 'vulnerable person' in the Act, but this could include people who are gambling beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, or substance misuse of alcohol or drugs.

The Licensing Authority will consider very carefully whether applications for Premises Licences in respect of gambling premises located close to schools, centres for gambling addicts, or residential areas where there may be a high concentration of families with children, should be granted, and will fully scrutinise the control measures outlined in an operator's local area risk assessment in this regard.

The Licensing Authority will consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

8. Conditions

- 8.1 The Licensing Authority is aware that the mandatory and default conditions imposed by the Gambling Commission will normally be sufficient to regulate gambling premises. In exceptional cases where there are specific risks or problems

associated with a particular locality, specific premises or class of premises the Authority may consider attaching individual conditions related to the Licensing objectives.

Any conditions attached to Licences will be proportionate and will be:-

- relevant to the need to make the proposed premises suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

8.2 In addition, the Licensing Authority will examine how applicants propose to address the Licensing objectives. In considering applications the Licensing Authority will particularly take into account the following, if deemed appropriate:-

- Proof of age schemes;
- Closed Circuit Television;
- Door Supervisors;
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entrances;
- Notices and signage;
- Specific opening hours; and
- With particular regard to vulnerable persons, measures such as the use of self-barring schemes, provision of information, leaflets, helpline numbers for organisations such as GamCare;

8.3 It is recognised that there are conditions which the Licensing Authority cannot attach to Premises Licences. These are:-

- Any conditions on the premises licence which make it impossible to comply with an operating licence condition
- Conditions relating to gaming machine categories, numbers or method of operation
- conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated);
- conditions in relation to stakes, fees, and the winning of prizes.

9. Plans

9.1 In all applications where a plan is required to be submitted, The Licensing Authority expectation is that, it will be in a scale of 1:100 unless otherwise agreed in writing and that, as a minimum, it will show the following (as appropriate to the type of application):

- The extent of the proposed licensed area
- All entry and exit points (including fire exits)

- **CCTV camera positions**
- **Positions of betting terminals, high pay out machines (including fixed odds betting terminals) and ATM's**
- **Any fixed or permanent structures including counters**
- **Privacy screens**
- **All unlicensed areas under the control of the licensee including any 'sterile area's' and toilet and kitchen facilities be they for staff or public use.**

10. Credit

- 10.1 Credit facilities are prohibited in casinos and premises licensed for bingo; however, this does not prevent the installation of ATMs on the premises, although the Licensing Authority may attach conditions as to the siting of such machines, for example by requiring adequate separation from areas used for gambling.

11. Betting Machines

- 11.1 In relation to Casinos, Betting Premises and Tracks, the Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching reasonable and necessary conditions to a Betting Premises Licence or to a Casino Premises Licence (where betting is permitted in the Casino).
- 11.2 When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, among other things, should take into account:-
- the size of the premises;
 - the number of counter positions available for person to person transactions
 - the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons; and
 - steps that the applicant has taken, or is offering, to positively and proportionately promote the licensing objectives.
- 11.3 In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merit and account will be taken of Codes of Practice or Guidance issued under the Act.

12. Provisional Statements

- 12.1 It is noted that the guidance from the Gambling commission states that 'It is a question of fact and degree whether the premises are finished to an extent that they can be considered for a Premises Licence rather than a Provisional Statement. The Licensing Authority will consider such applications on this basis but will not take into account other permissions that may be required such as Planning Consent.

13. Reviews

- 13.1 Representations and applications for review of a Premises Licence may be made by responsible authorities and interested parties.
- 13.2 The Licensing Authority can make a representation or apply for a review of the Premises Licence on the basis of any reason that it thinks is reasonable and necessary. For the purpose of exercising its discretion in these matters, the Authority has designated the Council's Planning and Licensing Service Manager as being the proper person to act on its behalf.
- 13.3 The Licensing Authority will decide if a representation or application for a review is to be carried out on the basis of whether or not the request is:
- frivolous or vexatious.
 - made on the grounds that will certainly not cause the Authority to wish to alter/revoke/suspend the Licence or remove, amend or attach conditions to the licence.
 - substantially the same as previous representations or requests for a review.
 - in accordance with any relevant codes of practice issued by the Gambling Commission.
 - in accordance with any relevant guidance issued by the Gambling Commission.
 - reasonably consistent with the licensing objectives.
- 13.4 There is no appeal against the Authority's determination of the relevance of an application for review.

14. Adult Gaming Centre

- 14.1 An Adult Gaming Centre is defined in Appendix C of this policy. Entry to these premises is age restricted. The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

15. Licensed Family Entertainment Centre

- 15.1 A Licensed Family Entertainment Centre is defined in Annex C of this policy. Entry to these premises is not generally age restricted, although entry to certain areas may be restricted dependent on the category of machines available for use.
- 15.2 The Licensing Authority will have specific regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. It will encourage the applicant to satisfy the Authority that they have taken reasonable and proportionate measures to ensure that under 18 year olds do not gain access to any area of the premises that may contain adult only gaming machines and that vulnerable persons should not be exploited on the premises.

15.3 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises, but would also encourage applicants to voluntarily offer their own measures to promote the licensing objectives. Such measures may include:

- Proof of age schemes
- CCTV
- Supervision of entrances and machine areas
- Physical separation of areas
- Provision of information leaflets/helpline numbers for organisations such as GamCare
- Self-barring schemes
- Measures/training for staff on how to deal with suspected truant school children on the premises
- Measures/training for staff by way of written procedures covering how staff would deal with unsupervised and obviously very young children being on the premises, or unsupervised children causing problems on or around the vicinity of the premises.
- Specific opening hours

16. Casinos

- 16.1 The Licensing Authority has not passed a resolution under Section 166(1) of the Act which would allow it to grant a Casino licence. Any future decision to pass or not pass such a resolution would be made by the Council's Licensing Committee and would need to be endorsed by the full Council, but would only be taken after a full consultation process has been undertaken within its area.
- 16.2 The Licensing Authority is aware that where a Licensing Authority's area is enabled to grant a Premises Licence for a new style casino, there are likely to be a number of operators which will want to run a casino. In such situations the Council will run a competition in line with Regulations and Codes of Practice issued under the Act by the Secretary of State.
- 16.3 Conditions may be imposed in relation to betting machine in line with Paragraphs 24.1 – 24.3 above.
- 16.4 Credit facilities are prohibited in casinos; however, this does not prevent the installation of ATMs on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

17. Bingo Premises

- 17.1 A Bingo premises is defined in Annex C of this policy. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.

- 17.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.
- 17.3 Credit facilities are prohibited in premises licensed for Bingo; however, this does not prevent the installation of ATMs on the premises, although the Licensing Authority may attach conditions as to the siting of such machines, for example by requiring adequate separation from areas used for gambling.

18. Betting Premises

- 18.1 Betting is defined in Annex 'C'. Entry to these premises is age restricted.
- 18.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.
- 18.3 In relation to betting machines, conditions may be imposed, in accordance with paragraphs 24.1-24.3 above.
- 18.4 In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act.

18.5 Fixed Odds Betting Terminals (FOBT's)

In respect to nationally expressed concerns that exist in relation to the potentially adverse impact FOBT's may have on vulnerable groups of adults, The Licensing Authority will give due consideration to the need to apply conditions to betting shop premises licences including, but not limited to, setting out minimum staffing levels to ensure sufficient staff are on the premises to enable staff to comprehensively promote responsible gambling, adequately protect players, particularly in relation to players who are deemed to be vulnerable and to prevent under 18 year olds accessing gambling facilities.

- 18.6 **The Licensing Authority expects FOBT's to be positioned in such a way that they can be appropriately monitored by staff particularly where those staff are positioned at a counter away from the machines. In general the Authority is of the view that 'privacy screens' will hamper this and will expect the local area risk assessment to take this into account where applicants intend to construct such screens. Particular attention should be paid to the Gambling Commission's Social Responsibility Codes in this regard, especially code 9.11.1. Where an existing licensee adds 'privacy screens' a variation application will be required**

19. Tracks

- 19.1 A Track is defined in Annex C of this policy. Entry to these premises is generally age restricted. Please refer to the Gambling Commission Guidance.
- 19.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.
- 19.3 In relation to Betting Machines, conditions may be imposed, in accordance with paragraphs 24.1 to 24.3 above.
- 19.4 In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act

20. Travelling Fairs

- 21.1 It is for the Licensing Authority to determine whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at a travelling fair is met, where Category D machines and/or equal chance prize gaming without a permit are to be made available for use.

PART C - PERMITS

- 1.1 The Act introduced a range of permits for gambling which are granted by Licensing Authorities. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises. With the exception of limiting machine numbers on Licensed Premises Gaming Machine permits, the Licensing Authority may only grant or reject an application for a permit. No conditions may be added.

2. Unlicensed Family Entertainment Centre Gaming Machine Permits

- 2.1 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for a Permit. It should be noted, however, that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 2.2 **The Licensing Authority requires the applicant to submit a scale plan of the premises showing the areas which the permit will cover together with any other areas under the control of the licensee. Generally, this will be at a scale of 1:100 but other scales may be submitted with prior agreement from the Licensing Authority.**
- 2.3 The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-
- A basic criminal record check for staff or equivalent criminal records check for the applicant and the person(s) having day to day control of the premises;
 - Proof of age schemes;
 - How the applicant proposes to ensure that children will be protected from harm whilst on the premises;
 - Safeguarding training;
 - Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises,
 - children causing perceived problems on, or around, the premises, and
 - Suspected truant children

3. (Alcohol) Licensed Premises Gaming Machine Permits

- 3.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises (under the Licensing Act 2003) to automatically have two gaming

machines, of Categories C and/or D, via a notification to the Local Authority.

- 3.2 Gaming machines can only be located on licensed premises that have a bar for serving alcohol to their customers. Premises restricted to selling alcohol only with food will not be able to apply for a permit.
- 3.3 Where an application for more than two gaming machines is received, the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm, or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only machines. Measures will cover such issues as:
- adult machines being in sight of the bar;
 - adult machines being in sight of staff who will monitor that the machines are not being used by those under 18;
 - appropriate notices and signage; and
 - with regard to the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information and leaflets/help-line numbers for organisations such as GamCare; and
 - relevant codes of practice issued by the Gambling Commission.
- 3.4 The Licensing Authority can decide to grant an application with a smaller number of machines and/or a different category of machines than that applied for but conditions other than these cannot be attached.
- 3.5 Where the Licensing Authority is satisfied that the applicant has provided sufficient measures to protect children and vulnerable persons from harm, or from being exploited by gambling, the Licensing Authority will grant permits allowing up to a maximum of four machines per premises without the need for the application to be considered and determined by the Licensing Sub Committee.

4. Prize Gaming Permits

- 4.1 The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children and vulnerable adults from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-
- A basic criminal record check for staff or equivalent criminal records check for the applicant and the person(s) having day to day control of the premises;
 - Proof of age schemes;
 - How the applicant proposes to ensure that children will be protected from harm whilst on the premises;
 - Safeguarding training;
 - Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises,

- children causing perceived problems on, or around, the premises, and
- Suspected truant children

4.2 In making its decision on an application for a Permit, the Licensing Authority does not need to have regard to the Licensing objectives, but must have regard to any Gambling Commission guidance.

5. Club Gaming and Club Machine Permits

- 5.1 Members' clubs and miners' welfare institutes may apply for a Club Gaming Permit and/or a Club Gaming Machine Permit, but are restricted by category and number of machines, and to equal chance gaming and games of chance.
- 5.2 Commercial clubs may apply for a club machine permit, subject to restrictions
- 5.3 The gambling provided under the authority of a club gaming permit must also meet the following conditions:
- a. in respect of gaming machines:
 - no child or young person may use a category B or C machine on the premises
 - that the holder must comply with any relevant provision of a code of practice about the location and operation of gaming machines.
 - b. the public, children and young persons must be excluded from any area of the premises where the gaming is taking place.
- 5.4 Section 273 of the Act sets out the conditions that will apply to the club machine permit, including that in respect of gaming machines no child or young person uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

PART D - OCCASIONAL AND TEMPORARY PERMISSION

1. Temporary Use Notices (TUN)

- 1.1 A TUN is defined in Annex C.
- 1.2 A TUN may only be granted to a person or company holding an Operating Licence relevant to the temporary use of the premises. Regulations have been issued by the Secretary of State prescribing the activities to be covered. At present a temporary use notice can only be granted for equal chance gaming.
- 1.3 For the purpose of a TUN, a set of premises is the subject of a TUN if any part of the premises is the subject of the Notice. This prevents one large premises from having a TUN in effect for more than 21 days per year by giving a Notice in respect of different parts.
- 1.4 The definition of “a set of premises” will be a question of fact in the particular circumstances of each Notice that is given. In considering whether a place falls within the definition of “a set of premises” the Licensing Authority will consider, amongst other things, the ownership/occupation and control of the premises.
- 1.5 The Licensing Authority will object to Notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

2. Occasional Use Notices (OUN)

- 2.1 Occasional Use Notices are defined in Annex C of this licensing policy.
- 2.2 The Licensing Authority has very little discretion concerning these Notices, aside from ensuring that a statutory limit of 8 days in a calendar year is not exceeded.
- 2.3 The Licensing Authority will, however, consider the definition of a track and whether the applicant is permitted to avail him/herself of the Notice.

3. Small Society Lotteries

- 3.1 The definition of a Small Society Lottery is contained in Appendix C of this licensing policy and these require registration with the Licensing Authority.

ANNEX A

List of Consultees

The draft policy was placed on the Council Website and in accordance with the Act the following organisations and individuals were consulted as part of the formal consultation exercise on the Statement of Gambling Licensing Policy.

- All responsible Authorities for the Gambling Act (as specified in Appendix B).
- Holders of Premises Licences and Permits under the Gambling Act 2005
- Gamblers Anonymous,
- The Licensing Committee
- Public Health

ANNEX B

Responsible Authorities

The following table shows the Responsible Authorities designated under the Act and their relevant contact details.

RESPONSIBLE AUTHORITY	CONTACT DETAILS
Licensing Authority	Licensing, Food & Safety Manager Colchester Borough Council Environment Services PO Box 889 Rowan House 33 Sheepen Road Colchester CO3 3WG e-mail address: licensing.team@colchester.gov.uk
Gambling Commission	Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP e-mail address: info@gamblingcommission.gov.uk
Essex Police	The Licensing Department (Alcohol) Essex Police Braintree CM7 3DJ e-mail address: licensing.applications@essex.pnn.police.uk
Essex County Fire & Rescue Service	Community Commander Colchester & Tendring Community Command Block C Park Road Colchester CO3 3UL e-mail address: colchestersdp@essex-fire.gov.uk
Planning Services	Principal Planning Officer Colchester Borough Council PO Box 889 Rowan House 33 Sheepen Road Colchester CO3 3WG e-mail address: duty.planner@colchester.gov.uk
Environmental Protection	Environmental Protection Manager Colchester Borough Council PO Box 889 Rowan House

	33 Sheepen Road Colchester CO3 3WG e-mail: environmentalprotectionteam@colchester.gov.uk
The Body Responsible for the Protection of Children from Harm	Head of Child Protection (Licensing Applications) DG06 D Block Schools, Children and Families Service Essex County Council PO Box 11 Chelmsford CM1 1QH Email: licenceapplications@essexcc.gov.uk
HM Revenue & Customs	Proper Officer H M Revenue & Customs HMRC Banking St Mungos Road Cumbernauld Glasgow G70 5WY e-mail: nrubetting&gaming@hmrc.gsi.gov.uk

In relation to vessels only, the Navigation Authority having functions in relation to any place where the vessel is or is likely to be while activities are carried on in reliance on a premises licence. For this purpose, correspondence should be sent to:

Surveyor-in-Charge
Maritime & Coast Guard Agency
Marine Office
Central Court
1B Knoll Rise

Any further enquiries or assistance can be obtained from the Licensing Authority using the contact details above. These addresses were correct at the time of going to press but are subject to change without notice. Any change made will not form part of a review of the Council's Statement of Licensing Policy

ANNEX C

Definitions/Glossary of Terms

In this Policy the definitions contained in Appendix c are included to provide an explanation of certain terms included in the Act and this Policy. In some cases they are an abbreviation of what is stated in the Act or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Act.

Adult	An individual who is not a child or young person.
Adult Gaming Centre	Premises in respect of which an Adult Gaming Centre Premises Licence has effect (Premises limited to entry by adults making Category B, C and D gaming machines available to their customers).
Authorised Local Authority Officer	A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that Authority's area.
Betting Machines	A machine designed or adapted for use to bet on future real events (not a gaming machine).
Bingo	A game of equal chance.
Casino	An arrangement whereby people are given an opportunity to participate in one or more Casino games.
Casino Resolution	Resolution not to issue Casino Premises Licences.
Child	Individual who is less than 16 years old.
Club Gaming	Equal chance gaming and games of chance in members' clubs and miners' welfare institutes (but not commercial clubs).
Club Gaming Machine Permit	Permit to enable the premises to provide gaming machines (3 machines of Categories B,C or D).
Code of Practice	Any relevant code of practice under Section 24 of the Act.
Conditions	<p>Conditions to be attached to licences by way of:-</p> <p>Automatic provision</p> <p>Regulations provided by Secretary of State</p> <p>Conditions provided by Gambling Commission</p> <p>Conditions provided by Licensing Authority</p> <p>Conditions may be general in nature (either attached to all licences or all licences of a particular nature) or may be specific to a particular licence.</p>

Default Conditions	Conditions that will apply unless the Licensing Authority decides to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.
Delegated Powers	Decisions delegated either to a Licensing Committee, Sub-Committee or Licensing Officers.
Disorder	No set interpretation. However, likely to be connected to the way gambling is being conducted. In the case of Gambling Premises' Licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
Equal Chance Gaming	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants
Exempt Lotteries	<p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission.</p> <p>There are four types:</p> <p>Small Society Lottery (required to register with Licensing Authorities).</p> <p>Incidental Non Commercial Lotteries.</p> <p>Private Lottery (Private Society, Work or Residents lottery).</p> <p>Customer Lotteries.</p>
External Lottery Manager	An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the Lottery.
Gaming	Prize Gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before the play commences.
Gaming Machine	Machine covering all types of gambling activity, including betting on virtual events.
Guidance to Licensing Authorities	Guidance issued by the Gambling Commission 3rd edition dated May 2009.

Human Rights Act 1998 Articles: 1,6,8 and 10	Article 1: Protocol 1 The right to peaceful enjoyment of possessions. Article 6: The right to a fair hearing. Article 8: The right of respect for private and family life. Article 10: The right to freedom of expression.
Incidental Non Commercial Lottery	A Lottery promoted wholly for purposes other than private game, and which are incidental to non-commercial events (commonly charity fundraising events, lottery held at a school fete or at a social event such as a dinner dance).
Exchange of Information	Exchanging of information with other regulatory bodies under the Gambling Act.
Interested Party	A person who:- lives sufficiently close to the premises to be likely affected by the authorised activities; have business interests that might be affected by the authorised activities, or represents persons in either of these two groups. See paragraph 10.6 for the criteria the Licensing Authority will apply in determining who lives or has business interests sufficiently close to the premises that they are likely to be affected by any authorised activities.
Licensing Authority	Colchester District Council acting under Section 2 of the Act.
Licensed Family Entertainment Centre	Premises offering Category C gaming machines that are restricted to adults and offering Category D machines to children and young persons in segregated areas.
Licensed Lottery	A Large Society Lottery or a Local Authority Lottery. They require registration with the Gambling Commission.
Licensing objectives	Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. Ensuring that gambling is conducted in a fair and Open way. Protecting children and other vulnerable persons From being harmed or exploited by gambling.
Lottery	An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.

Lottery Tickets	Tickets that must:- identify the promoting society; state the price of the ticket, which must be the same for all tickets; state the name and address of the member of the Society who is designated as having responsibility for the Society for the promotion of the lottery or, if there is one, the External Lottery Manager, and State the date of the draw, or enable the date of the draw to be determined.
Mandatory Conditions	Specified conditions provided by Regulations under Section 176 of the Act to be attached to Premises Licences.
Members' Club	A Club that must:- have at least 25 members; be established and conducted 'wholly or mainly' for purposes other than gaming; be permanent in nature; not be established to make commercial profit; and be controlled by its members equally.
Occasional Use Notice	Betting may be permitted on a 'track' for eight days or less in a calendar year without the need for a full Premises Licence.
Off Course Betting	Betting that takes place other than at a track, i.e. at a licensed betting shop.
Off Course Betting - Tracks	Betting that takes place in self-contained betting premises with the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operates only on race days.
On Course Betting - Tracks	Betting that takes place on a track while races are taking place.

Operating Licence	<p>Issued by the Gambling Commission. Licence to permit individuals and companies to provide facilities for certain types of gambling. It may authorise remote or non remote gambling</p> <p>Casino Operating Licence</p> <p>Bingo Operating Licence</p> <p>General Betting Operating Licence</p> <p>Pool Betting Operating Licence</p> <p>Betting Intermediary Operating Licence</p> <p>Gaming Machine General Operating Licence (for an Adult Gaming Centre Operator or a Family Entertainment Centre)</p> <p>Gaming Machine Technical Operating Licence (to manufacture, supply, install, adapt, maintain or repair a gaming machine or part of a gaming machine)</p> <p>Gambling Software Operating Licence (to manufacture, supply, install or adapt gambling software)</p> <p>Lottery Operating Licence</p>
Permits	<p>Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises. Issued by the Licensing Authority (for Unlicensed Family Entertainment Centres, Prize Gaming, Gaming Machines, on alcohol related premises, Club Gaming and Club Gaming Machines).</p>
Personal Licence	<p>Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. Cannot be held by companies.</p>
Pool Betting - Tracks	<p>Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the Premises Licence for the track.</p>
Premises	<p>Defined as 'any place', including a vehicle, vessel or moveable structure. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises.</p>
Premises Licence	<p>Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, Adult Gaming Centres and Family Entertainment Centres.</p>

Private Lotteries	<p>There are three types of Private Lotteries:</p> <p>Private Society Lotteries - tickets may only be sold to members of the Society or persons who are on the premises of the Society;</p> <p>Work Lotteries - the promoters and purchasers of tickets must all work on a single set of work premises;</p> <p>Residents' Lotteries - promoted by, and tickets may only be sold to, people who live at the same set of premises.</p>
Prize Gaming	Where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.
Prize Gaming Permit	A permit to authorise the provision of facilities for gaming with prizes on specific premises.
Provisional Statement	<p>Where an applicant can make an application to the Licensing Authority in respect of premises that he:-</p> <p>Expects to be constructed.</p> <p>Expects to be altered.</p> <p>Expects to acquire a right to occupy.</p>
Regulations	Regulations made by the Secretary of State under the Gambling Act 2005.
Relevant Representations	Representations that relate to the Gambling Licensing objectives, or that raise issues under the Licensing Policy or the Gambling Commission's Guidance or Codes of Practice.

Responsible Authorities	<p>Public Bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows:-</p> <p>Colchester District Council acting as the Licensing Authority The Gambling Commission The Chief Officer of Police (Essex Police) Essex County Fire and Rescue Service Local Planning Authority, ie Colchester District Council Planning Department The authority having functions in relation to the environment or harm to human health, i.e. Colchester District Council Environmental Health Essex Local Safeguarding Children's Board HM Revenue and Customs Vessels only - the Navigation Authority whose statutory functions are in relation to waters where the vessel is usually moored or berthed, i.e. the Environment Agency, British Waterways Board, the Maritime and Coastguard Agency Other persons prescribed by the Secretary of State</p>
Small Society Lottery	A lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.
Society	The society or any separate branch of such a society, on whose behalf a lottery is to be promoted.
Temporary Use Notice	To allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.
The Act	The Gambling Act 2005.
The Council	Colchester Borough Council
The Commission	The Gambling Commission.
The Policy	The Statement of Licensing Principles published by the Licensing Authority under Section 349 of the Act.
Tote [or Totalisator]	Pool betting on tracks.

Track	Sites where races or other sporting events take place, e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place.
Travelling Fair	A fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year.
Unlicensed Family Entertainment Centre	Premises offering Category D machines only with unrestricted entry.
Vehicles	Defined trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.
Vulnerable Persons	No set definition, but likely to mean group to include people who:- gamble more than they want to gamble beyond their means who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs
Young Person	An individual who is not a child but who is less than 18 years old.

ANNEX D

Map of Colchester



ANNEX E

Local Area Risk Assessment Example Template

1: Local Area			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
1.1			Systems
			Design
			Physical
1.2			Systems
			Design
			Physical
1.3			Systems
			Design

			Physical

2: Gambling Operation			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
2.1			Systems
			Design
			Physical
2.2			Systems
			Design
			Physical
3.3			Systems

			Design
			Physical

3: Internal and External Premises Design			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
3.1			Systems
			Design
			Physical
3.2			Systems
			Design

			Physical
3.3			Systems
			Design
			Physical

Actions following assessment:			
1: Local Area			
Action	Person/Dept tasked	Date tasked	Date completed
2: Gambling Operation			
Action	Person/Dept tasked	Date tasked	Date completed
3: Internal and External Premises Design			
Action	Person/Dept tasked	Date tasked	Date completed

Signed:		Date:	
---------	--	-------	--

--	--	--	--

Print Name:	
-------------	--

Notes: In addition to the requirement for existing licence holders to have a local area risk assessment, this risk assessment must be completed for all new premises or when the premises licence is varied. The assessment must also be reviewed when there are any significant changes to either the local circumstances and/or the premises.

Risks: Area of consideration that may impact on one or more of the licensing objectives
Local Risks: These are the identified factors that may pose a risk to the licensing objectives by virtue of the provision of gambling facilities at the premises

Licensing objectives: these are the three licensing objectives under the Gambling Act 2005 to which the risk factors have been identified as potentially impacting. For ease of reference within this assessment the objectives have been given codes that should be used to replace the full objective. These codes are CD for the Crime and Disorder objective, FO for the Fair and Open objective and CV for the protection of children and the vulnerable.

Control Measures: These are measures that the operator can put in place to mitigate the risk to the licensing objectives from the risk factors. These control measures are split into three categories, systems, design and physical.

The fact that there are three subsections in each section of the template should not be taken to suggest that you should limit your assessment to three risks for each section. The above template is an example only. You are at liberty to use your own design.

Report of	Licensing, Food and Safety Manager	Author	Jon Ruder
Title	Pavement Permits (Street Restaurant, Café and Bar Furniture)		
Wards affected	Potentially all		

1. Executive Summary

- 1.1 The purpose of introducing a permit procedure for the safe layout of movable street furniture in the town is to encourage a café culture in relation to bars, pubs, restaurants and cafes, whilst controlling the layout of the public highway in relation to tables, chairs and barriers. The aim is to use a permit and conditions system to ensure ease of access, safety and improve visual impact in an efficient, fair and controlled way. The proposed policy is intended to help businesses understand where street cafes might be encouraged, where they will not be permitted, and the specific requirements in relation to their licensing.

2. Recommended Decision

- 2.1 To approve the Policy and recommend to full Council that it be adopted with effect from 1 January 2019.

3. Reason for Recommended Decision

- 3.1 The Licensing Committee is asked to agree the proposed Pavement Permit Policy to enable formal adoption by Council.

4. Alternative Options

- 4.1 Not to introduce a Pavement Permit Policy. .

5. Background Information

- 5.1 The Committee considered the introduction of a Pavement Café Policy at its meeting in August 2018 and requested that further information be provided on the costs of the licence. The Policy is attached at Appendix A.
- 5.2 The following fees have been calculated based on the premises frontage.

Pavement Permit	Fee
New Pavement Permit (Café Furniture Licence) Under 5m ²	205.00
New Pavement Permit (Café Furniture Licence) 5-10m ²	295.00
New Pavement Permit (Café Furniture Licence) 10-15m ²	380.00
New Pavement Permit (Café Furniture Licence) Over 15m ²	470.00
Transfer/Alteration of Pavement Permit.	75.00
Renewal Pavement Permit (Café Furniture Licence) Under 5m ²	102.00
Renewal Pavement Permit (Café Furniture Licence) 5-10m ²	145.00
Pavement Permit (Café Furniture Licence) 10-15m ²	190.00
Renewal Pavement Permit (Café Furniture Licence) Over 15m ²	235.00

6. Equality, Diversity and Human Rights implications

- 6.1 The Policy has been developed in accordance with and taken account of, all relevant legislation and national and local strategies.

7. Standard References

- 7.1 There are no particular references to the Strategic Plan; consultation or publicity considerations or financial; community safety; health and safety or risk management implications.

7. Strategic Plan References

- 7.1 The Council's strategic plan is the overarching strategy for the Borough setting out the direction and potential for the Borough and integrating social, economic and environmental strategies
- 7.2 This Policy aims to contribute to this vision through promoting a wider range of high-quality attractions that encourage an increased range of customers in order to lead to longer term economic viability. Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the town. Additionally, effective regulation plays an essential role in enabling businesses to thrive and contribute to the Borough's economy

8. Consultation

- 8.1 Consultation on the policy was carried out prior to the previous Committee meeting when the introduction of the policy was considered.

9. Publicity Considerations

- 9.1 Affected businesses will be advised if the policy is approved.

10. Financial implications

- 10.1 The costs associated with the issuing of permits will be recovered by the relevant fee.

11. Health, Wellbeing and Community Safety Implications

- 11.1 There is no known direct public health and safety issues which might arise from the adoption of the revised Policy.

12. Health and Safety Implications

- 12.1 There are no known negative public health and safety issues which might arise from the adoption of the Policy. The policy will regularise the provision of street furniture to promote safe use of the public highway.

13. Risk Management Implications

- 13.1 The Policy will continue to provide the Council with a sound basis for decision making.



**Pavement Permits in Colchester
Policy, Procedure and Process
2018–2021**

DRAFT

Colchester Borough Council

January 2018

Contents

Forward	Page 3
Introduction	Page 4
General Criteria	Page 5
Enforcement	Page 7
Conditions to be attached to the permit	Page 8

Forward

Colchester is Britain's oldest recorded town with a unique history and heritage attracting in excess of 6 million visitors' trips a year. It is also a vibrant, thriving, prosperous and welcoming town and the existence of a large University and Garrison contribute to its overall diversity. The Borough is home to more than 180,000 residents living in communities based not only in and around the town centre but in the coastal, rural and riverside areas of the Borough. The population is expected to rise to 233,400 by 2035 with the regeneration of key areas of the borough and the creation of new communities.

The day time, early evening and night time economy in the Borough, attracts 6.3 million visitors a year to Colchester and is worth £79.7 million, is predominantly centred in the town of Colchester. The unique geography of the town centre means that the vast majority of licensed venues are located within the area circled by the old roman wall; within this area and close by are a number of residential communities. The challenge for the Council as the Licensing Authority is to balance the sometimes opposing demands of this sector with those of residents.

A recent survey of the day, evening and night-time economy commission by the Council and carried out in May/June 2015 identified that those surveyed wanted to see a greater variety of things to do; anti-social behaviour addressed; and action taken to reduce excessive drinking. This supports the Council's view that to attract businesses, visitors and residents the town needs to offer a variety of venue choices and to move away from a night-time economy centred on high volume drinking establishments. The survey results showed that whilst 31.3% indicated they visited the town for the purposes of clubbing, a broadly similar number, 30.5%, visited in order to eat out and that couples and families accounted for 40.5% of the users of this economy; as such introducing a Café style scheme for bars and restaurants across the borough will encourage those who come in to eat may wish to stay later and encourage more families to stay and enjoy what the night time has to offer.

The Strategic Plan

The Council's strategic plan is the overarching strategy for the Borough setting out the direction and potential for the Borough and integrating social, economic and environmental strategies to create a Borough that is -

Growth – Ensuring all residents benefit from the growth of the borough

Responsibility – Encouraging everyone to do their bit in making our Borough even better

Opportunity – Promoting and Improving Colchester and its environment

Wellbeing – Making Colchester an even better place to live and supporting those who need the most help

This Policy aims to contribute to this vision through promoting a wider range of high-quality attractions that encourage an increased range of customers in order to lead to longer term economic viability. Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the Borough. Additionally, effective regulation plays an essential role in enabling businesses to thrive and contribute to the Borough's economy.

Links to Other Strategies, Policies and Initiatives

In preparing this Policy, the Council has had regard to and consulted those involved in its local strategies on crime prevention, planning, transport, culture, tourism and economic development. The Policy therefore integrates, as far as is reasonably practicable, with other key Council policies to ensure the promotion of the Council's strategic plan and with key initiatives to improve the night time economy

Local Development Framework

The Council's adopted Local Plan emphasizes the importance of the Town Centre and regeneration. Planning policies direct development towards the most accessible and sustainable locations and plans for the provision of transport, employment and community facilities to support the growth areas of the Borough. This Policy supports these development aims; it recognises the need to ensure that licensed premises are suitable for the area in which they are situated and encourages a diverse range of entertainment facilities to meet the needs of growing communities.

Introduction

Colchester Borough Council supports the provision of street café furniture in the town Centre's and surrounding Borough Street cafes can make a positive contribution to the street scene and add vitality to town and village Centre's bringing life, colour and interest onto the street.

This policy is intended to help businesses understand where street cafes might be encouraged; and whilst the provision of street cafes is encouraged, it is important that they are properly administered and managed to ensure that they meet the legal requirements and the high standards expected by the Colchester Borough Council and Essex County Council

Should you wish to make use of the paved area in front of your bar, restaurant and café for siting of an enclosed area for chairs and tables. Then please read the guidance that accompanies the application and criteria (listed below) before making an application.

Although each application will be considered on its own merits this policy contains key points that must be considered in every case.

General information regarding Design or furniture and Visual impact.

The following information should be considered; Seating, tables and, if required, umbrellas and heaters (together with a secure base) as well as any proposed barriers to the enclosed seating area must comply with the British Standards. The Heaters must be to BS EN 60529:1992 (Electric Heaters) and BS EN 14543:2005 (Gas Heaters). **Where barriers are used any adverts that businesses wish to put on to them must first apply for Advertisement consent under the Advertisement Regulations.**

The positioning of tables, chairs and barriers outside your premises should relate to the existing street-scene and movement of pedestrians. Ideally it should be designed as an

integral part of the main café, restaurant, public house or other catering establishments rather than an unrelated after-thought. Whilst regard should be given to the function of street furniture – in other words: will your customers be comfortable? Will you be able to deliver a sufficiently high standard? – The visual impact will be crucially important especially in historic Centre's.

The choice of tables and chairs for use outside your premises should reflect the quality of the furniture inside and the character of the street environment outside. In the latter case your choice of furniture should enhance the street environment.

Colchester Borough has invested in and is committed towards maintaining a high-quality environment. Choosing the 'right' furniture is in your choice of furniture, you should have regard to the surface on which your furniture will stand. An uneven surface, for example cobbles, may require a sturdier style of furniture than would be necessary on a more even or paved surface. Furniture should not be too heavy to be thrown or lifted by the wind.

You may be required to provide a movable means of enclosure for any furniture sited outside your premises, Colchester Borough Council considers wind break-like canvas structures, substantial planters or a combination of both, in tubular steel with a stretched canvas banner to be functional and attractive means of enclosure. Structures should have a minimum overall height of 800mm and a gap of no more than 100mm – 150mm between the base (or tapping rail) and the ground.

General Criteria

The area for which a pavement permit is sought must be highway as defined by S115A Highways Act 1980, namely:

- a highway in relation to which a pedestrian planning order is in force;
- a restricted byway;
- a bridleway;
- a footpath (including a walkway as defined in section 35(2) of the Highways Act 1980);
- a footway;
- a subway constructed under section 69 of the Highways Act 1980;
- a footbridge constructed under section 70 of the Highways Act 1980;
- a highway whose use by vehicular traffic is prohibited by a traffic order but whose use by other traffic is not prohibited or restricted or regulated by such an order; and
- to a local Act walkway.

Applicants for pavement permits are required to confirm with Essex County Council (Highway Records) the highways status of the application site before making their application see guidance notes.

Before considering a pavement permit Colchester Borough Council must carry out consultations and publish a Notice in accordance with the Highway Act 1980. The Council must take into consideration all representations made to them when considering an application for a pavement permit The Council is also required by the Highways Act 1980

to obtain the consent of the Highway Authority, frontages with an interest and if appropriate obtained walkway consent.

The Council will not permit any objects to be placed on the highway, which will cause a hazard or an obstruction to the free flow of pedestrians, prevent the normal access to premises adjoining the highway, access by emergency or service vehicles or to prevent statutory undertakers and operators of electronic communications code network having access to any apparatus in, on or over the highway.

Pavement Permits will only be issued to cafes, restaurants, public houses or other catering establishments that serve food and drink within the premises and employ sufficient staff to provide table service to the outside area and have sufficient provision of sanitary conveniences for use by the public.

In considering such applications the Council will give particular consideration to Section 17 of the Crime and Disorder Act 1998 therefore prior to granting any consent for tables and chairs within the highway, the Council will pay particular regard to any potential for crime or disorder arising either directly or indirectly from the consent and will give significant weight to the views of the local police

The Council will ensure before issuing a pavement permit that Health & Safety, Food Hygiene and other Environmental legislation are not compromised.

To protect the attractiveness of the streets, the council will require:-

- The appearance of the tables and chairs must ideally enhance, or at least not be detrimental to the street scene.
- The tables and chairs and their associated activity must not cause environmental problems or detract from the amenities of adjacent retailers/occupiers. For example, there must be no litter problem, smells from food sales, or noise, so as to cause nuisance or annoyance.

The Council will ensure that the layout of the furniture will provide adequate access and circulation space for all customers including wheelchair users and those with push chairs, buggies, and members of the public with mobility problems etc.

The Council will generally apply hours of operation between 07.00 to 18.00 from Monday to Sunday for all consents. Applications for pavement permits will be accepted beyond 18:00 hours and up to 23:00 hours. The Licensing Team in approving such applications will have regard to an applicant's previous track record of compliance with the conditions attached to any previous consent or compliance with other associated conditions controlling their trade.

The Council will require that all glasses, crockery and other ancillary items used in the permitted area, are made of a toughened material. All glass-bottled drinks, including alcoholic drinks must be served in toughened drinking glasses. Glass bottles are not allowed in the permitted area.

The Council will not permit music to be broadcast on to the permitted area.

The Council will not accept an application unless the following have been provided:

- A completed application form
- Correct fee
- Plans
- Confirmation from the Highway Records of the status of the application site
- Evidence of public liability insurance
- Other associated permissions i.e. Planning & any appropriate licences under the Licensing Act 2003.

Colchester Borough Council and Essex County Council standard conditions will be applied to all “Pavement Permits”. In addition to the standard conditions the Council’s may also impose special conditions on individual pavement permits where necessary.

Enforcement

Tables and chairs placed on the highway without permission are an obstruction of the Highway. Any person who has placed tables and chairs on the highway without a valid pavement permit issued by Colchester Borough Council will be referred to the Licensing Team for enforcement action.

NON-COMPLIANCE with any Condition of the permission resulting in any complaint to the Council or to the Police will render the holder(s) liable to a written Notice under Section 115K of the Highways Act 1980 and failure to comply with such Notice immediately AND ANY SUBSEQUENT breach or non-compliance as aforesaid shall render the holder(s) liable to a written Notice under Condition 20 hereof REVOKING this permission forthwith

Conditions to be attached to the Permit

The following standard conditions shall apply to all licenses. Further additional conditions may be applied to licenses. Site Specific conditions will also be found on the permit. That relate to layout, Barriers, dimensions and storage.

1. This permission is not transferrable.
2. The tables, chairs and umbrellas shall only be placed outside the premises between the hours of 7.00 am and 6.00 pm. unless otherwise indicated.
Permitted days Monday – Sunday
3. Duration of permission:- Permits are valid for 1 year from the date of issue and only for the area of the highway applied for.
4. Permitted furniture or equipment – Tables, chairs and umbrellas and barriers to form enclosure
5. the holder(s) shall not assign underlet or part with any interest or possession given by this Permission or any part thereof but the holder(s) may surrender it at any time.
6. The holder(s) shall not cause any unnecessary obstruction of the highways or danger to persons using it and shall not permit persons to gather so as to cause a nuisance or annoyance or danger to any persons lawfully using the highway
7. The area so permitted to be used solely for the purpose of consuming food and drink purchased on the premises. It is strictly forbidden to prepare any food and drink in the area so permitted by this permit.
8. The holder(s) shall ensure that customers who purchase food or drink for consumption on the premises shall not consume such items outside of the permitted area. The holder(s) shall ensure that all drinking glasses in which drinks are served shall be of strengthened glass or plastic and that no drink shall be served in a glass bottle from which it is intended or likely that a customer will drink
9. The table's chairs and umbrellas shall be of such a design as may be approved by the Council in writing and be kept in good repair and condition at the Permit Holder's expense.
10. The holder(s) shall not use the highway for any other purpose whatsoever nor at any time other than during permitted hours, other than during permitted hours, other than lawfully passing or repassing thereover as (a) member(s) of the public.
11. Nothing contained in this permit gives the holder permission to make fixtures to or excavations of any kind in the surface of the highway which shall be left entirely undisturbed.
12. The Permit Holder shall make no claim or charge against the Council in the

event of the chairs or tables or other objects being lost, stolen or damaged in any way from whatever cause

13. The Permit Holder shall indemnify the Council against all actions, proceedings, claims demands and liability which may at any time be taken, made or incurred in consequence of the use of the chairs & tables & other objects and for this purpose must take out at the Permit Holder's expense a policy of insurance approved by the Council in the sum of at least £5,000,0000 (FIVE MILLION POUNDS) in respect of any one event and must produce to the Council on request the current receipts for premium payments and confirmation of the annual renewals of the policy.
14. No charge shall be made by the Permit Holder for the use of the chairs and tables and other objects
15. **Waste from the Permit Holder's operations must not be disposed of in the permanent litterbins provided by the Council.**
16. **All businesses shall provide receptacles for the disposal rubbish and where necessary smoking material. To fit inside the boundary of the planned site**
17. **Refuse and litter deposited on the highway in the vicinity of the chairs and tables and other objects must be removed each day by the Permit Holder at the their expense or at more frequent intervals as may be required by or under the Environmental Protection Act 1990**
18. The Permit Holder shall remove the tables, chairs and windbreaks from the highway outside the hours permitted by Clause 2 hereof and immediately if required to do so as to permit works in or the use of the highway by:
 - 1) The Council, County Council, the police, fire & ambulance services, any utility operator, or
 - 2) Builders' vehicles, hearses and furniture removal vans
19. The Permit Holder shall be responsible for any rates, taxes and other outgoings which may be charged
20. **The permission shall run from the date of the Permit for a term of one year.**
21. The Council reserves the right to revoke this Permit forthwith if the Permit Holder breaches any of the conditions contained herein.
22. **No form of fencing or obstruction or structure to protect the Planters other than that agreed to by the County Council will be permitted within the public highway and the County Council, as highway authority, is empowered to take action under Section 143 to remove any structure which is deemed to be a nuisance.**
23. **If umbrellas are used all parts of the umbrella must be above an absolute**

minimum of 2.2 metres from the hard surface of the footway

24. **If the area to be licensed is contained within a Public Space Protection Order Zone then the area shall be clearly delineated by the use of barriers of a suitable nature to be agreed with the Licensing Authority.**
25. The holder(s) shall produce this Permission on demand when so required by a Police Officer or a duly authorised Officer of the Council.
26. The holder(s) of this Permission shall not exercise privileges granted by this Permission otherwise than strictly in accordance with this Permission
27. The holder(s) shall ensure that a copy of these conditions and licence is at all times on prominent display within the permitted location
28. The holder(s) shall remove all furniture or equipment, litter bins or other articles placed on the highway in accordance with this Permission at the end of each daily period of use and at the expiry, surrender or revocation of this Permission
29. The licence is non transferable
30. Colchester Borough Council reserves the right to change or amend these Terms and Conditions without prior notice. **This includes the right to increase the level of fees or charges referred to herein in order to reimburse the Council its reasonable expenses in connection with granting this Permission.** Any changes will be notified and will apply with immediate effect. If you do not wish to accept the updated Terms and Conditions you should not continue to use this licence.
31. Without prejudice to the ability of the County Council to remove the tables & chairs by reason of Statute, common law, and/or for breach of any of the terms and conditions of this consent, this consent shall remain in force until such time as the applicant seeks to amend its proposal, including, but not limited to, the location and/or number of the tables & chairs to be placed in the highway and/or such time as the Borough refuse to issue the related permission
32. Exemption for permit area to be used for smoking area after 23.00 must be approved by Colchester Borough Council. Within this exemption barriers can remain but no tables, chairs or heaters can remain on site. The area must be monitored by licensed security and the barriers are to be removed at the close of the business.

Notes:

1. Section 115K of the Highways Act, 1980 provides as follows:-
 - (1) If it appears to a Council that a person to whom they have granted a Permission under Section 115E of this Act has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified.

- (2) If a person whom a notice is served under sub-section (1) of this Act fails to comply with the notice, the Council may take the steps themselves.
 - (3) Where a Council have incurred expenses in the exercise of the power conferred on them by sub-section (2) of this Act, those expenses, together with interest at such reasonable rate as the Council may determine from the date of service of a notice of demand for the expenses, may be recovered by the Council from the person on whom the notice under sub-section 91) of this Act was served.
2. Failure to comply with any Condition of the Permission and/or the issuing of any Notice under Conditions 5 or 22 hereof will require the Council to consider whether any subsequent Permissions should be granted to the holder(s) of this Permission.
3. Any Notice hereunder shall be deemed to be sufficiently served if handed to holder personally or left addressed to him at the address given on page 1 of the attached permission.



GUIDANCE NOTES FOR MAKING AN APPLICATION FOR A PAVEMENT PERMIT

(E.g. Tables, chairs, Barriers and heaters)

Under the Highways Act 1980 – Part VIIA (Provision of Amenities on Certain Highways)

Please also be advised that these guidance notes are only intended to assist with the making of an application for a permit under the Highways Act 1980 and to bring certain information/obligations to the applicant's attention.

It is not intended to be legal advice to the Applicant.

Applicant is advised to take independent legal advice from their own Solicitor

WARNING: If you currently have tables and chairs on the highway without a permit issued by the Council, you may be committing an offence and are liable to prosecution and should be removed immediately.

The submission of an application for a permit does not entitle you to place or retain tables & chairs on the highway whilst your application is being considered

Introduction

Under the Highways Act 1980 (Part VIIA), Colchester Borough Council may grant a permit for the use of tables, chairs and associated furniture on the public highway for the purpose of providing refreshments.

Any person wishing to make an application for a permit is advised to read these guidance notes before completing and submitting an application.

Before considering making an application to Colchester Borough Council, you should make enquires of Essex County Council's Highway Records to confirm the highway status of the land, for which you are seeking a Permit for as permits granted under the Highways Act 1980 do not apply to private land or land which is **not** the following highway:

- to a highway in relation to which a pedestrian planning order is in force;
 - to a footpath (including a walkway as defined in section 35(2));
 - to a footway;
 - to a highway whose use by vehicular traffic is prohibited by a traffic order; and
 - to a local Act walkway.
- **Note: where you apply for a permit CBC will consult with Essex County Council**

Guidance Notes

following address enclosing an Ordnance Survey base plan showing the land in question:

Essex Highways
Essex County Council County Hall
Duke Street
Chelmsford CM1
1QH

E-mail: HighwayRecords@essexhighways.org

Please be advised that should you fail to include evidence of the status of the Highway the Council will return your application for you, the applicant to confirm the status of the Highway.

IMPORTANT NOTE:

It is essential in all cases that minimum width of unobstructed highway is kept free for safe and convenient pedestrian movement. This will depend on the location and existing width of the footway and what you apply for.

In all cases dropped kerbs must be kept clear to allow unhindered access at all times.

Where an application cannot provide the minimum width of unobstructed highway in compliance with the above will be refused.

Permits

The starting times for the placing of tables and chairs will vary according to the individual circumstances. The earliest time that the Council will consider is 7am, with a finishing time of 6pm Monday to Sunday.

Applications for hours beyond 6pm but no later than 11pm will be accepted. However the Licensing Team in approving such an application will have regard to an Applicant's previous record and what type of business they are. The council will not grant permits for hours beyond 11pm.

Permits are valid for 1 year from the date of issue and only for the area of the highway as applied for. Once granted and until the permit is revoked or surrendered the business will be invoiced on an annual basis

Permits will be granted with standard conditions, and any further conditions Essex County Council or Colchester Council considers necessary. All conditions need to be complied with in order to retain the permit.

Application Process

The forms to make an application for a Pavement Permit can be found on Colchester Councils website.

Any person wishing to make application for a permit must submit a completed application together with the correct fee, plans, other permissions and evidence of insurance to the Council's Licensing Department.

Payment must be made before considering an application, The Council is required by the Highway Act 1980 to:

Seek to the consent of:

The Highway Authority – Essex County Council;
Frontages with an Interest – if a highway; Network Rail (is maintained by them).
If Highway is a walkway – the Council must also seek walkway consent.

Consult with:

Planning Authority;
Building Control;
Environmental Health - Health & Safety Team;
Environmental Health - Pollution Team;
Ward Member;
Essex Police;
Essex Fire & Rescue Service;
Those materially affected by the application

There is a 28 day period for seeking consent and consultation.

CONSENT MUST BE OBTAINED BEFORE CONSIDERING THE APPLICATION FURTHER

Consent may be given with reasonable conditions. Any question of whether consent is unreasonable, withheld or given with unreasonable conditions, the Council must refer the matter to Arbitration for determination. Arbitration is the magistrates court.

To publish a Public Notice by:-

Affixing it in a conspicuous position at or near the place to which the application relates; and

Serving a copy of the Notice on the owner and occupier of any premises appearing to the Council to be likely to be materially affected and frontage with an interest.

The Public Notice must contain details of the application and give 28 days to allow representations to be made to the Council.

If representations are made within the specified period and subject to the appropriate consents being given, the application will be referred to the Licensing, Food and Safety Manager or Council's Licensing Committee for determination. The Council is obligated by the Highway Act 1980 to take into consideration all representation when determining an application.

Permit Area and Furniture

You must include a plan with the application clearly showing the boundary of the area for which you are seeking the permit. The plan accompanying the application must be Ordnance Survey based – scale 1:1250. The plan should show the location of the furniture within the application site.

Details should be provided of all the furniture intended to be used within the permitted area. Furniture cannot be stored on the highway and Applicants must ensure that there is sufficient storage for the furniture off the highway.

Planning Permission

Planning permission is a separate legal matter and applicants are advised to contact the Council's Planning Department to be advised if planning consent is required.

The granting of a permit under the Highway Act 1980 is not proof that planning permission has been granted. If you wish to put information on your barriers consent will be required from the planning department. Generally only the name of the business are acceptable.

Applicants are advised that granting of the permit to use the highway does not alter your premises license. If any licensable activity i.e. the sale of alcohol is to take place within the permit area the Applicant should contact the Council's Licensing Department to make appropriate application to vary the existing Premises License to include the permit area.

If there is no premises licence, the Applicant is advised that they must apply for a Premises License in accordance with the Licensing Act 2003.

Public Space Protection Orders (PSPO's)

Public Space Protection Orders (PSPO's) are a tool that can be used by local Authorities to deal with the problems of anti-social behaviour including but not limited to alcohol drinking in public places.

Once a PSPO is in place the police and local authority can use their confiscation powers to enforce the restriction. It is not an offence to consume alcohol within a designated area, but failure to comply with officer's requests to stop drinking and surrender alcohol without reasonable excuse is an offence.

PSPO's are available in areas that have experienced alcohol-related anti-social behaviour problems. They have been used across the country in areas ranging from a single street or park, to town centre or city-wide areas. Currently there is a PSPO operating in Colchester Borough. Specifically Castle Ward Area which included the town centre area.

If a premises licence issued under the Licensing Act 2003 covers the area outside the premises or a pavement licence has been granted then a PSPO does not apply to that section of the highway which is clearly delineated for the consumption of alcohol.

Environmental Health

Applicants are advised to contact the Council's Environmental Services Department to receive guidance/information for the compliance of Environmental Health legislation and considerations they must have when providing facilities for customers for the consumption of food and drink. e.g. provision of a toilet and hand washing facilities.

The granting of a permit under the Highway Act 1980 is not proof that Environmental Health legislation/considerations have been satisfied.

Crime and Disorder

In considering such applications the Council will give particular consideration to Section 17 of the Crime & Disorder Act, 1998. Therefore, prior to granting any consent for tables and chairs within the highway, the Council will pay particular

Guidance Notes

regard to any potential for crime or disorder arising either directly or indirectly from the consent and will give significant weight to the views of the local police.

Insurance

It is a requirement that Applicants for Pavement permits hold Public Liability Insurance which would indemnify both the Council and Essex County Council as Highway Authority against all actions, proceedings, demands and liability, which may at any time be taken, made or incurred arising out of the grant of the permit. The policy must be for a sum of at least £5million. A copy must be supplied to the Council at the time of application.

A condition of the permit will require a copy of the Public Liability Insurance. Completed application should be sent to:
Colchester Borough Council

Should you have any further queries please email the Licensing Department at licensing.team@Colchester.gov.uk

Report of	Monitoring Officer	Author	Andrew Weavers 282213
Title	Review of Local Code of Corporate Governance		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This report requests the Committee to review the Local Code of Corporate Governance for 2018/19. The Local Code of Corporate Governance is how the Council demonstrates that its structures comply with the recognised principles of good governance.
- 1.2 The report also recommends that Full Council includes the Code in its Policy Framework which comprises all of the Authority's key policies.

2. Recommended Decision

- 2.1 To review the updated Local Code of Corporate Governance for 2018/19.
- 2.2 To recommend to Full Council that it be approved for inclusion in the Council's Policy Framework.

3. Background

- 3.1 In 2007 CIPFA (The Chartered Institute of Public Finance and Accountancy) and SOLACE (The Society of Local Authority Chief Executives) issued "Delivering Good Governance in Local Authorities", a guide to ensuring that local authorities are appropriately governed. This was updated in December 2012.
- 3.2 Governance is defined as the systems and processes, and cultures and values, by which an organisation is directed and controlled and through which it accounts to, engages with and, where appropriate, leads their communities. It is about how Colchester Borough Council ensures that it is doing the right things, in the right way, for the right people, in a timely, inclusive, open and accountable manner
- 3.3 The Council strives to meet the highest standards of corporate governance to help ensure it meets its objectives. Members and Officers are responsible for putting in place proper arrangements for the governance of the Council's affairs and the stewardship of the resources at its disposal.
- 3.4 Therefore a Local Code of Corporate Governance has been developed to ensure that the Council complies with the principles set out in the CIPFA/SOLACE guidance. The Local Code is reviewed annually, to ensure that the Council is still satisfying the principles, and forms part of the Council's Policy Framework.

- 3.5 The guidance identifies six Core Principles against which local authorities should review their existing corporate governance arrangements and develop and maintain a local code of governance. The principles are;
- Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area;
 - Members and officers working together to achieve a common purpose with clearly defined functions and roles;
 - Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour;
 - Taking informed and transparent decisions which are subject to effective scrutiny and managing risk;
 - Developing the capacity and capability of members and officers to be effective; and
 - Engaging with local people and other stakeholders to ensure robust public accountability.
- 3.6 The six core principles each have a number of supporting principles, which in turn have a range of specific requirements that apply across the range of Council business.
- 3.7 The Local Code, and the Council's compliance with the principles, have been reviewed, and attached at Appendix 1 is the updated Local Code of Corporate Governance for 2018/19. This sets out the six principles and elaborates on how the Council is meeting them, what source documents or processes evidence this and in addition highlights any further or ongoing work. This in turn links into the Council's Annual Governance Statement.
- 3.8 The Local Code has been updated to refer to the new Strategic Plan and the Councils' commercial company structure. Otherwise there have been no significant changes to the code following the review, and it is considered still fit for purpose.

4. Strategic Plan References

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

5. Publicity Considerations

- 5.1 The Local Code of Corporate Governance will be published on Corporate Governance section of the Council's website.

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

- 6.1 None.



Code of Corporate Governance 2018/19

A guide to the Council's compliance with the six principles of Corporate Governance.

October 2018

Contents	Page
INTRODUCTION	2
PRINCIPLE ONE	3
PRINCIPLE TWO	6
PRINCIPLE THREE	12
PRINCIPLE FOUR	16
PRINCIPLE FIVE	20
PRINCIPLE SIX	24

THE PRINCIPLES OF CORPORATE GOVERNANCE

- Core Principle 1** *Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area.*
- Core Principle 2** *Members and officers working together to achieve a common purpose with clearly defined functions and roles.*
- Core Principle 3** *Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.*
- Core Principle 4** *Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.*
- Core Principle 5** *Developing the capacity and capability of members and officers to be effective.*
- Core Principle 6** *Engaging with local people and other stakeholders to ensure robust public accountability.*

CODE OF CORPORATE GOVERNANCE

INTRODUCTION

“Governance is about how local government bodies ensure that they are doing the right things, in the right way for everyone, in a timely, inclusive, open, honest and accountable manner.

It comprises the systems and processes, and cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and where appropriate, lead their communities”.

Delivering Good Governance in Local Authorities (CIPFA/SOLACE 2007)

The CIPFA/SOLACE guidance “Delivering Good Governance in Local Authorities” identified six Core Principles against which local authorities should review their existing corporate governance arrangements and develop and maintain a local code of governance. These principles are:

1. *Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area*
2. *Members and officers working together to achieve a common purpose with clearly defined functions and roles*
3. *Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour*
4. *Taking informed and transparent decisions which are subject to effective scrutiny and managing risk*
5. *Developing the capacity and capability of members and officers to be effective*
6. *Engaging with local people and other stakeholders to ensure robust public accountability.*

This Code of Governance has been prepared in accordance with the Guidance and will be reviewed by the Governance and Audit Committee on an annual basis.

Additionally authorities are required to prepare and publish an Annual Governance Statement in accordance with this framework under Regulation 4(2) of the Accounts and Audit (Amendment) (England) Regulations 2011. The Annual Governance Statement is a key corporate document. The Chief Executive and the Leader of the Council have joint responsibility as signatories for its accuracy and completeness.

PRINCIPLE ONE

Core Principle 1 – Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area

Our aims in relation to focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area are to:

- 1.1 Exercise strategic leadership by developing and clearly communicating the authority's purpose, vision and its intended outcome for citizens and service users
- 1.2 Ensure users receive a high quality service whether directly, or in partnership, or by commissioning
- 1.3 Ensure that the authority makes best use of resources and that tax payers and service users receive excellent value for money

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
1.1.1 Develop and promote the Council's purpose and vision	<p>Strategic Plan 2018-21 (approved by Full Council February 2018 following consultation and focus groups, with 20 priorities now set out under four new themes).</p> <p>Previous Strategic Plan 2015-18 (finalise 2015-18 actions).</p> <p>The Council's commercial programme, including the set-up of three trading subsidiaries – Amphora Trading, Homes and Energy – within the Colchester Commercial (Holdings) Ltd (CCH) holding company from April 2018.</p> <p>Partnership working with local, regional and national stakeholders.</p> <p>Service Plans.</p> <p>ICT, Communication and Technology Strategy.</p> <p>Council website – www.colchester.gov.uk.</p> <p>Local Research and Statistics data on website.</p>	<p>Development and monitoring of actions to support delivery of the Strategic Plan 2018-21, including spending priorities.</p> <p>Continuing the rolling 'Service Futures' programme which takes a fundamental review of Council services and how they are delivered.</p> <p>The development of the CCH/Amphora companies, and the implementation of their high-level goals, financial targets and management agreements.</p> <p>Encouraging self-serve and online options to maximise use of resources</p>

	<p>The Constitution and its committees and panels. Core values of 'customer, business and culture' with identified attitudes and behaviours Strategic Plan Action Plan (existing) Key Performance Indicators (KPIs) reported and published to show achievements against targets Waste Strategy introduced June 2017 Awards and accreditations Publication Scheme/Transparency Code</p>	<p>Council's Improvement and Engagement Team review customer demand and feedback, statistics and research to support business improvement.</p> <p>Council website – new website set up in summer 2018 to support the Council's vision and objectives, including focus on online self-serve options.</p> <p>Digital Access Support Team – external funding secured to help customers get online so they can access self-serve options and information to support themselves and the digital opportunities available if customers use the web.</p>
1.1.2 Review on a regular basis the Council's vision for the local area and its impact on the authority's governance arrangements	<p>Strategic Plan and its Action Plan The Constitution and its committees and panels Medium Term Financial Strategy and Capital Programme Local Code of Corporate Governance Annual Governance Statement and Assurance Framework Risk Register</p>	<p>Development and monitoring of actions to support delivery of the Strategic Plan 2018-21.</p> <p>Strategic Plan 2018-21 Spending Priorities – agreed July 2018 by Cabinet</p> <p>Local Code of Corporate Governance updated as required by CIPFA Guidance</p> <p>The Policy Review and Public Initiatives Panel was introduced from May 2018 to provide legislative, improvement and policy advice to Cabinet and Portfolio Holders on issues that may affect executive functions. The Panel considers</p>

		issues at the request of Cabinet and Portfolio Holders and must seek approval from Cabinet on whether and how issues proactively identified by the Panel are examined.
In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
1.1.3 Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all parties	Strategic Plan 2018-21 Partners were key contributors in the Peer Challenge Partnership Strategy Council praised by All-Party Parliamentary Group Inquiry into partnership working Safer Colchester Partnership – annual plan, website, strategic and operational groups	Community Hub at Colchester library brings a range of partners together to provide customer-facing services. Also the Essex County Council Relationship Manager role. Crime and Disorder Committee examines the work of the Safer Colchester Partnership.
1.1.4 Publish an annual report on a timely basis to communicate the authority's activities and achievements, its financial position and performance	Strategic Plan actions and monitoring of delivery Statement of Accounts Council's website www.colchester.gov.uk Awards and accreditations, Performance and Improvement sections of the website Performance Management Board ICT, Communication and Technology Strategy The Council's Forward Plan Publication Scheme/Transparency Code	A webpage has been set up to bring all Annual Reports into one central place on the Council's website for improved transparency and open access. An online Datashare 'library' gives access to view and download a range of council databases and information
1.2.1 Decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available	Customer – Portfolio Holder on the Cabinet Performance reporting to Senior Management , Scrutiny Panel and the Cabinet Consultation – "Consultations, Research and Statistics" section on website Mosaic and other customer research tools Annual Monitoring Report	Improvement and Engagement Team review customer demand and feedback, statistics and research to encourage services to make informed choices based on fact, and support process improvement work council-wide.

	External Audit annual audit letter and recommendations Local Government and Social Care Ombudsman – Annual Review Letter	<p>‘Customer’ strand of the Council’s Customer Service Standard.</p> <p>‘Customers and Partnerships’ strand of Senior Management Team meetings – this meeting aims to ensure we are focused on our customers and looking for partnership opportunities.</p> <p>Feedback tab on webpages (on the right)</p> <p><u>‘Help us get it right’</u> options for customers</p> <p>Review of Complaints Procedure (to Committee October 2018)</p>
--	--	---

In order to achieve our aims we have/will:	Source documents/processes	Further work ongoing
1.2.2 Put in place effective arrangements to identify and deal with failure in service delivery	Performance reporting and performance indicators Complaints Procedure Internal Audit Process and annual work programme Chief Operating Officer Performance Management Board External Auditor's annual audit letter and recommendations The Constitution, its committees and panels Risk Management Strategy Ethical Governance Policies Annual Governance Statement Action Plan	Performance Management Board addresses and manages performance and financial issues and meets monthly. Preparation for Budget Group is also managed here. <u>'Help us get it right'</u> options for customers Review of Complaints Procedure (to Committee October 2018)
1.3.1 Decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions.	Performance Reporting Performance Management Board Environmental Sustainability Strategy/Actions External Auditor's annual audit letter and recommendations Statement of Accounts Annual Treasury Strategy Statement Parking Partnership annual report Report templates – financial considerations Monitoring of commercial performance Publication Scheme/Transparency Code Sustainability assessments for Local Development Framework	Building a sustainable commercial services arm for the Council – new trading companies set up in April 2018.

PRINCIPLE TWO

Core Principle 2 – Members and Officers working together to achieve a common purpose with clearly defined functions and roles

Our aims in relation to Members and Officers working together to achieve a common purpose with clearly defined functions and roles are to:

- 2.1 Ensure effective leadership throughout the authority and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function
- 2.2 Ensure that a constructive working relationship exists between authority members and officers and the responsibilities of members and officers are carried out to a high standard
- 2.3 Ensure relationships between the authority, its partners and the public are clear so that each knows what to expect of the other

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.1.1 Set out a clear statement of the respective roles and responsibilities of the executive and of the executive's members individually and the authority's approach towards putting this into practice	Constitution (Cabinet terms of reference) Record of decisions and supporting materials Member/Officer Protocol Member Training and Development Senior officer training Member role profiles Committee and Councillor area on the Council website Publication Scheme/Transparency Code	The Constitution will continue to be reviewed on a rolling basis.
2.1.2 Set out a clear statement of the respective roles and responsibilities of other authority members, members generally and of senior officers	Constitution (Statutory Officer positions, Terms of Reference for Committees, Member roles) Protocols on planning, the representational role of Members, Chairmen, Officer/Members Schemes of Delegation Terms and Conditions of Employment Member role profiles Website and its Datashare section	.

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.2.2 Make the chief executive or equivalent responsible and accountable to the authority for all aspects of operational management	Development of the Committee and Councillor area on the Council website provides more complete and easily accessible information about Councillors and the Council's decision making processes. Chief Executive designated Head of Paid Service Constitution (Head of Paid Service responsibilities) Conditions of Employment Schemes of Delegation Job Accountability Statement /Person Specification Signature on Annual Governance Statement	The Constitution will continue to be reviewed on a rolling basis. Support for this from Chief Operating Officer New arrangements for trading/holding companies after July 2017 restructure – new trading companies set up in April 2018.
2.2.3 Develop protocols to ensure that the leader and chief executive (or equivalent) negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained	Constitution Member/Officer Protocol Regular 1:2:1s	The Constitution will continue to be reviewed on a rolling basis. The development of the CCH/Amphora companies , and the implementation of their high-level goals, financial targets and management agreements.
2.2.4 Make a senior officer (usually the section 151 officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control	Strategic Finance Manager is the Council's Chief Financial Officer (S151 Officer). Constitution Job Accountability Statement / Person Specification S151 Officer Protocol Report template includes financial implications before report considered by Members Officer Pay Policy agreed by Full Council	

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.2.5 Make a senior officer (other than the responsible financial officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes, regulations are complied with (usually the Monitoring Officer)	Strategic Governance Manager is the Council's Monitoring Officer Monitoring Officer Protocol Job Accountability Statement / Person Specification Report template requires that Legal Services are consulted before a report is considered by Members	
2.3.1 Develop protocols to ensure effective communication between members and officers in their respective roles	Member / Officer Protocol Planning Procedures Code of Practice Outside Bodies advice given to Members Member and Officer Codes of Conduct	Portfolio Holder briefings
2.3.2 Set out the terms and conditions for remuneration of members and officers and an effective structure for managing the process including an effective remuneration panel (if applicable)	Pay and conditions policies and practices Independent Remuneration Panel Terms of Reference and Reports Regular liaison meeting with Unison Officer Pay Policy agreed by Full Council	
2.3.3 Ensure that effective mechanisms exist to monitor service delivery	Performance reporting and performance indicators Complaints Procedure Assistant Directors monitoring Service Plans Performance Management Board Performance management system Scrutiny Panel Annual Governance Statements for the Council, Colchester and Ipswich Museums Service and North Essex Parking Partnership Publication Scheme/Transparency Code	Customers and Partnerships' strand of Senior Management Team meetings Customer insight work Datashare brings key performance and related data into one place on the website

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.3.4 Ensure that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated	Strategic Plan underpinned by a review of all existing consultation work. Medium Term Financial Strategy Performance reporting and indicators Council Website ICT, Communication and Technology Strategy News releases, e-newsletters and social media Customer insight groups Service Reviews	Policy Review and Public Initiatives Panel set up to provide legislative, improvement and policy advice to Cabinet and Portfolio Holders on issues that may affect executive functions.
2.3.5 When working in partnership ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the authority	Constitution Individual Partnership Agreements Service Level Agreements Advice given to Members in relation to outside bodies Partnership Strategy	Community Hub at Colchester library brings a range of partners together to provide customer-facing services. Also the Essex County Council Relationship Manager role. Scrutiny Panel work programme includes review of partnership arrangements, with presentations from partners at Scrutiny
2.3.6 When working in partnership: <ul style="list-style-type: none"> ensure that there is clarity about the legal status of the partnership ensure that representatives or organisations both understand and make clear to all other partners the extent of their authority to bind their organisation to partner decisions. 	Constitution Individual Partnership Agreements Service Level Agreements Advice given to Members in relation to outside bodies Partnership Strategy Monitoring Officer role and protocol	Customers and Partnerships' strand of Senior Management Team meetings

PRINCIPLE THREE

Core Principle 3 – Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour

Our aims in relation to promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour are to:

- 3.1 Ensuring authority members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance
- 3.2 Ensuring that organisational values are put into practice and are effective

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
3.1.1 Ensure that the authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect	Constitution Chief Executive's and Leader's blog on the Council's intranet Performance reporting Governance and Audit Committee has an overall view of conduct issues established by its terms of reference Member and Officer Codes of Conduct Member/Officer Protocol Whistleblowing Policy Anti-Fraud and Corruption Policy Freedom of Information Policy statement and publication scheme Monitoring Officer and S151 Officer Protocols Localism Act Member conduct regime Annual review of Ethical Governance policies Peer Challenge	Staff survey and taking action on its findings Leadership Development Programme led by Executive Management Team Social media, including Yammer on revamped Council intranet Datashare on the Council's website and on www.data.gov.uk supports the importance of openness and transparency Employee Assistance Programme

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
3.1.1 continued	Planning Procedures Code of Practice Officer Register of Gifts and Hospitality Officer voluntary register of interests Members' Register of Interests Website and intranet Portfolio Holder monthly sessions with senior officers "Corporate Governance" section on the Council's website bringing all relevant information together under one heading	
3.1.2 Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocols	Member and Officer Codes of Conduct Performance management system Complaints procedures Anti-fraud and Corruption Policy Member/Officer Protocols Induction for new Members and staff Member Development Programme Member Personal Development Plans Officer training on Member/ officer relationship Whistleblowing Policy Information and Communication Technology (ICT) Security Policy Safeguarding Policy Intranet Annual review of Ethical Governance policies	Embedding the Council's core values of 'customer, business and culture' with identified attitudes and behaviours. The revised Job Accountability Statement/Person Specification template highlights the core values to applicants, and the revised staff appraisal scheme now makes how you conduct yourself against the values, attitudes and behaviours to be equally important to achieving the SMART objectives that apply to the role. Review of Complaints Procedure (to Committee October 2018).

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
3.1.3 Put in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice	Member and Officer Codes of Conduct Equality and Diversity training for Members and Officers Financial Procedure Rules, Contract Procedure Rules Ethical Governance policies Registers of Interests (Officers and Members) Services and processes are underpinned by Equality Impact Assessments Equality Objectives Officer induction and training Annual review of Ethical Governance Policies Job Accountability Statements include whether or not a role is politically restricted	Introduction of mandatory Member training on Equality and Diversity
3.2.1 Develop and maintain shared values including leadership values both for the organisation and staff reflecting public expectations and communicate these with members, staff, the community and partners	Member and Officer Codes of Conduct Strategic Plan, objectives and priorities in place and shared Performance reporting Strategic Plan Action Plan – progress is reported to scrutiny on a half-yearly basis	People Strategy actions Embedding the Council's core values of 'customer, business and culture' with identified attitudes and behaviours
3.2.2 Put in place arrangements to ensure that procedures and operations are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice	Contract Procedure Rules Ethical Governance Policies Member and Officer Codes of Conduct Monitoring of the above takes place by the Governance and Audit Committee ICT Security Policy Annual reporting to Governance and Audit Committee	

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
3.2.3 Develop and maintain an effective Standards Committee	Member conduct issues (standards) within remit of Governance and Audit Committee Agenda and Minutes Terms of Reference Regular meetings Work programme	Annual review of the Localism Act arrangements by the Governance and Audit Committee.
3.2.4 Use the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority	Member and Officer Codes of Conduct Strategic Plan, objectives and priorities in place and being shared Performance Appraisals Portfolio Holder briefing with Senior Managers Policy Framework	Embedding the Council's core values of 'customer, business and culture' with identified attitudes and behaviours
3.2.5 In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively	Values agreed with each partner Partnership Strategy	Annual report to Cabinet on Members' appointments to outside bodies, including feedback on outcomes, issues and engagement Scrutiny Panel work programme includes review of partnership arrangements, with presentations from partners at Scrutiny

PRINCIPLE FOUR

Core Principle 4 – Taking informed and transparent decisions which are subject to effective scrutiny and managing risk

Our aims in taking informed and transparent decisions which are subject to effective scrutiny and managing risk are to:

- 4.1 Being rigorous and transparent about how decisions are taken and listening and acting on the outcomes of constructive scrutiny
- 4.2 Having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs
- 4.3 Ensuring that an effective risk management system is in place
- 4.4 Using their legal powers to the full benefit of the citizens and communities in their areas

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.1.1. Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the organisation's performance overall and of any organisation for which it is responsible	Scrutiny is supported by robust evidence and data analysis Agenda and Minutes Scrutiny Panel Work programme Successful outcome of reviews Ownership of work programme Training for scrutiny chairman Scrutiny of partners and joint projects	Scrutiny Panel work programme includes review of partnership arrangements, with presentations from partners at Scrutiny Joint Scrutiny Chairman's meeting
4.1.2 Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based	The Constitution, its committees and panels Decision making protocols Record of decisions and supporting materials Report template Decision list published (members) Live audio streaming of meetings on the website Website	The Policy Review and Public Initiatives Panel has been set up to provide legislative, improvement and policy advice to Cabinet and Portfolio Holders on issues that may affect executive functions.

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.1.3 Put in place arrangements to safeguard members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice	Member and Officer Codes of Conduct Member and Officer Registers of Interests Declaration of Interests at meetings Code of Conduct guidance and training provided to Members and Officers Planning procedures Code of Practice Governance and Audit Committee have responsibility for these issues Monitoring Officer reports on these issues Politically restricted posts Ethical Governance Policies, and annual review Secondary Employment Policy	
4.1.4 Develop and maintain an effective Audit Committee (or equivalent) which is independent or make other appropriate arrangements for the discharge of the functions of such a committee	Audit issues within remit of Governance and Audit Committee Member Development Programme Agenda and Minutes The Constitution	Continue to review Member training programme with specific reference to audit and governance
4.1.5 Put in place effective transparent and accessible arrangements for dealing with complaints	Complaints procedure "Help us get it right" on website with full details Annual letter from Local Government and Social Care Ombudsman Customer insight work Social media	Review of Complaints Procedure (to Committee October 2018) Feedback tab on webpages (on the right)
4.2.1 Ensure that those making decisions whether for the authority or partnership are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications	Council's Website Report templates dealing with key aspects Report by Assistant Director with necessary technical expertise included Training and professional development Equality Impact Assessments Clear and well understood decision making processes with published timelines	Datashare Projects carried out by the Council's Customer Improvement and Engagement Team Customer insight work

	Publication Scheme and Transparency Code	
In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.2.2 Ensure that professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately	Report template requires that consultation is undertaken with legal and financial functions before report considered by Members Record of decision making and supporting materials S151 and Monitoring Officer Protocols Equality Impact Assessments Clear and well understood decision making processes with published timelines.	Business Partners for Policy and Corporate services, including legal and financial matters
4.3.1 Ensure that risk management is embedded into the culture of the organisation, with members and managers at all levels recognising that risk management is part of their job	Risk Management Strategy - Policy Framework Corporate Risk Manager Corporate/service planning Cabinet Member with accountability for risk management Half-yearly reporting to Governance and Audit Committee Performance Management Board quarterly risk review Risk Registers- Strategic, Operational and Project Risk and Control self-assessment completed by all managers Training for Members and Officers Intranet area for Risk Management Corporate Governance Team, bringing together the co-ordination of governance processes.	Embedding of risk management processes into projects, with a review of what constitutes a significant project Integrating operational, strategic and project risks into the risk reporting process to senior management

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.4.1 Actively recognise the limits of lawful activity placed on them by, for example the ultra vires doctrine but also strive to utilise powers to the full benefit of their communities	Constitution Monitoring Officer Report templates Equality Impact Assessments Equality Objectives	
4.4.2 Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on local authorities by public law	Availability of professional legal advice Knowledge of current and forthcoming legislation and regulations Monitoring Officer Protocol S151 Officer Protocol Report templates Constitution Equality Impact Assessments Equality Objectives Training and Policy updates	Business Partners for Policy and Corporate services, including legal and financial matters
4.4.3 Observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationality, legality and natural justice into their procedures and decision making processes	Availability of professional legal advice Knowledge of current and forthcoming legislation and regulations Monitoring Officer Protocol S151 Officer Protocol Procedure Rules Report template Constitution Format for quasi-judicial committees “Have Your Say” processes Planning Procedure Code of Practice Equality Impact Assessments Equality Objectives Datashare	Business Partners for Policy and Corporate services, including legal and financial matters

PRINCIPLE FIVE

Core Principle 5 – Developing the capacity and capability of Members and Officers to be effective

Our aims in relation to developing the capacity and capability of Members and Officers to be effective are:

- 5.1 Making sure that Members and Officers have the skills, knowledge, experience and resources they need to perform well in their roles
- 5.2 Developing the capability of people with governance responsibilities and evaluating their performance as an individual and as a group
- 5.3 Encouraging new talent for membership of the authority so that best use can be made of individuals' skills and resources in balancing continuity and renewal

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
5.1.1 Provide induction programmes tailored to individual needs and opportunities for Members and Officers to update their knowledge on a regular basis	Member training and development Member training records on the website Member and Officer Induction programmes Refresher courses Briefings Performance reviews for officers People Strategy Personal Development Plans Learning and Development Strategy Charter Status for Elected Member Development renewed July 2018	Member skills development Intranet section with e-induction options and information for new starters. MyLearning is being developed as the 'one stop shop' for staff e-learning and development needs – from induction to essential skills and wellbeing. Introduction of mandatory member development in respect of GDPR, safeguarding, equality and diversity and chairing skills.
5.1.2 Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that	Appraisals and regular 1 to 1 sessions Personal Development Plans Training and development Recruitment and Induction	Talent Management/Career Track for staff Future Leader programme

these roles are properly understood throughout the organisation	Monitoring Officer and S151 Officer Protocols Employee Policies Learning and Development Strategy/Annual Learning and Development Plan	
---	--	--

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
5.2.1 Assess the skills required by Members and Officers and make a commitment to develop those skills to enable roles to be carried out effectively	Performance reviews for officers SMART objectives Personal Development Plans for officers Member training and development People Strategy Learning and Development Strategy/Annual Learning and Development Plan Charter Status for Elected Member Development renewed July 2018	Member skills development Developing the training records on the Member Information System Talent Management/Career Track for staff Introduction of mandatory Member development in respect of GDPR, safeguarding, equality and diversity And chairing skills.
5.2.2 Develop skills on a continuing basis to improve performance including the ability to scrutinise and challenge and to recognise when outside expert advice is needed	Performance reviews for officers Personal Development Plans for officers Member training and development Member scrutiny training People Strategy Colchester Learning Managers Vine HR and East Of England Local Government Association – meetings, best practice and briefings Peer Challenge and action plan Charter Status for Elected Member Development renewed July 2018	Member skills development Talent Management/Career Track for staff Learning and Development – commercial and Office365 skills

5.2.3 Ensure that effective arrangements are in place for reviewing the performance of the authority as a whole and of individual members and agreeing an action plan which might for example aim to address any training or development needs	Performance reporting and indicators Performance and Improvement Framework Performance management and appraisals – staff SMART objectives People Strategy Peer Challenge and action plan Annual Audit Letter Members' Personal Development Plans Annual Training Plan Local Government Ombudsman Annual Letter	
--	---	--

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
5.3.1 Ensure that effective arrangements designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority	Equality Impact Assessments on services and policies Consultations, Research and Statistics on website Voluntary Sector Grants programme Public meetings Equality Objectives Strategic Plan Consultation Local Development Framework consultation Community development work Consultations Customer insight work Improvement and Engagement Team projects Have Your Say! processes Appointment of Independent Persons	Apprenticeship scheme Community Enabling Strategy Locality Budgets Use of social media Council's commitment to paying the Living Wage as a minimum for its staff including, for example, those helping to support the Council's elections work at polling stations Establishment of Policy and Public Initiatives Panel.
5.3.2 Ensure that career structures are in place for Members and Officers to encourage participation and development	People Strategy Internal Recruitment Process Internal Secondments Personal Development Plans for officers	Talent Management/Career Track - the SMT Talent Panel considers critical roles; moderate career track paths; confirm Future Leader or Future Potential

	Personal Development Plans for members Talent Management/Career Track for staff Member skills development Staff structure charts	assessments; and then consider those on the Future Leader career track and manage their development Future Leader Programme Staff Recognition Scheme Opportunities such as the District Council Staff Development Programme and the Local Authority Challenge as they arise
--	---	--

PRINCIPLE SIX

Core Principle 6 – Engaging with local people and other stakeholders to ensure robust public accountability

Our aims in relation to engaging with local people and other stakeholders to ensure robust public accountability are to:

- 6.1 Exercise leadership through a robust scrutiny function which engages effectively with local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships
- 6.2 Take an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly, in partnership or by commissioning
- 6.3 Make best use of human resources by taking an active and planned approach to meet responsibility to staff

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
6.1.1 Make clear to themselves, all staff and the community, to whom they are accountable and for what	Constitution Community Enabling Strategy Stakeholder identification Targets and Performance Monitoring Website and intranet Consultation Strategy ICT, Communication and Technology Strategy Asset Management Strategy Datashare section on the Council's website brings together all information required under statutory codes such as the 'Local Government Transparency Code' to make this easily accessible Structure charts for senior management	<p>A key part of the Government's Transparency agenda is to bring information together into one searchable website - www.data.gov.uk to provide clarity on these issues. The information on the Datashare section of the Council's website is now also being published on www.data.gov.uk</p> <p>Locality Budgets for councillors have been brought in with clearer guidelines and all spend/activity transparently available on the Council's website.</p>

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
6.1.2 Consider those institutional stakeholders to whom they are accountable and assess the effectiveness of the relationships and any changes required	Stakeholder identification Statutory provisions Stakeholder surveys Consultation Strategy ICT, Communication and Technology Strategy Partnership Strategy Scrutiny Panel and the Crime and Disorder Committee Work Programme Datashare	Ongoing review of Freedom of Information requests to see if there are items which could be put onto the website or Datashare, so that a repeat request would not be needed as the item had been made freely available. Examples have been business rate and public funeral information now published as a matter of routine.
6.1.3 Produce an annual report on scrutiny function activity	Annual Scrutiny Report	
6.2.1 Ensure that clear channels of communication are in place with all sections of the community and other stakeholders including monitoring arrangements to ensure that they operate effectively	ICT, Communication and Technology Strategy News releases, e-newsletters and social media Websites for the Council and subsidiaries Equality Impact Assessments Safeguarding Policies Datashare, Freedom of Information and Data Protection section of the website Recordings of meetings on the website	Social media and text messaging Customer and demand projects
6.2.2 Hold meetings in public unless there are good reasons for confidentiality	Constitution Access to Information Rules Compliance with Localism Act access to information regulations	
6.2.3 Ensure arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands	Strategic Plan Website - "Consultations, Research and Statistics" section Consultation strategy ICT, Communication and Technology Strategy Community development work Equality Objectives and Equality Impact Assessments Budget Consultation Meeting	Holding public consultations on key issues to encourage different sections with differing views to take part

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
6.2.4 Establish a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users including a feedback mechanism for those consultees to demonstrate what has changed as a result	Statement of Community Involvement Customer insight project team and its work Partnership framework ICT, Communication and Technology Strategy Consultation Strategy Budget Consultation - meeting and online Strategic Plan consultation Website - "Consultations, Research and Statistics" section Cabinet and Council – progress of questions raised by the public	
6.2.5 On an annual basis, publish a performance plan giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period	Statement of Accounts Strategic Plan Performance Reporting and Performance Indicators Council website has "Performance and Improvement", "Council Awards and Achievements" and "Council and Democracy" sections Publication Scheme and Transparency Code	Strategic Plan Action Plan – progress is reported to Scrutiny and Cabinet on a half-yearly basis A webpage has been set up to bring all annual reports into one central place on the Council's website for improved transparency

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>6.2.6 Ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so</p>	<p>Constitution Customer service standards Voluntary Sector Compact “Have Your Say” at meetings Freedom of Information Act Publication Scheme Member and Officer Codes of Conduct Ethical Governance Policies Monitoring Officer Protocol ICT, Communication and Technology Strategy Data Protection Policy ICT Security Policy Council website Datashare, Freedom of Information and Data Protection section of the website National Fraud Initiative - Fair Processing Notice Egress Switch Secure Email Encryption Publication Scheme and Transparency Code</p>	<p>Community Hub at Colchester library brings a range of partners together to provide customer-facing services for customers of the Council and other organisations. This town centre location is easy to access for those who do not wish to self-serve or would like some assistance to do so online. It is open plan with a Welcome Zone where staff work with customers, but also includes areas where confidential discussions can be carried out if needed or appropriate</p> <p>Security checks on staff who process official/sensitive information using the Public Sector Network or who need a secure .GCSX e-mail address</p>
<p>6.3.1 Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making</p>	<p>Investors in People Facilities and Recognition Agreement with UNISON – including monthly meetings. Internal Communications Strategy Service Reviews and other operational reviews include consultation and involvement arrangements as part of the process/staff communications</p>	<p>Staff survey and taking action on its findings</p> <p>Staff suggestion boxes</p> <p>Investors in People – recredited for three years to 2021.</p>

13 November 2018

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

1. Executive Summary

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

2. Recommended Decision

- 2.1 To recommend to Full Council that it adopts the statement of intent in relation to ethical governance.
- 2.2 To review the following revised policies:
 - Anti-Fraud and Corruption (Appendix A)
 - Whistleblowing (Appendix B)
 - Anti-Money Laundering (Appendix C)
 - Covert Surveillance (Appendix D)
 - Information Security (Appendix E)
 - Data Protection (Appendix F)
 - Acceptable Use (Appendix G)
 - Income and Debt Management (Appendix H)

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

3. Background

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

- 3.3 The Ethical Governance policies set out the standards of conduct and integrity that it expects from staff, elected members, suppliers, partners, volunteers and the public. Breaches of the policies will be pursued and procedures have been introduced to enable any person to raise genuine concerns they may have about the conduct of anybody acting for or on behalf of the Council.
- 3.4 At its meeting on 21 October 2015 full Council adopted a statement of intent in relation to both Ethical and Corporate Governance which gave a high organisational commitment to zero tolerance of fraud, corruption and bribery. Accordingly it is now appropriate to refresh the statement of intent which is attached at Appendix 1. The Committee is recommended to refer this to Full Council for adoption.

4. Review of Ethical Governance Policies

- 4.1 The Anti-Fraud and Corruption, Whistleblowing, Anti-Money Laundering, Information Security, Data Protection, Covert Surveillance and Income and Debt policies were last reviewed by this Committee at its meeting on 17 October 2017. The Ethical Governance policies were subsequently adopted as part of the Council's Policy Framework by Full Council.

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

Policy	No. of times invoked during 2017/18	Whether procedures effective
Anti-Fraud and Corruption	None	n/a
Whistleblowing	None	n/a
Anti-Money Laundering	None	n/a
Covert Surveillance	None	n/a
Information Security	None	n/a
Data Protection	None	n/a

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

- 4.2 The Monitoring Officer writes an annually to both Members and Officers reminding them of their obligations regarding the Anti-Fraud and Corruption and Whistleblowing policies.
- 4.3 The Data Protection policy has been rewritten to comply with the requirements of the Data Protection Act 2018 which enacts the General Data Protection Regulations. The policy sets out the required roles and responsibilities of both officers and councillors. Data Protection training has been provided for both councillors and officers.
- 4.4 As a consequence of the Data Protection Act 2018 it has been necessary to strengthen the Council's Acceptable Use policy which states the organisations requirements for both councillors and officers when using its information and communications technology to ensure the integrity of the Council's systems. This policy has now been included within the suite of Ethical Governance policies.
- 4.5 The Income and Debt Management Policy was approved by the Committee at its meeting on 17 October 2017. The policy clearly demonstrates how the Council processes income

and recovers debt. The policy has been reviewed and minor amendments made as well as:

- amending the cost of Summons due to legislative changes
- adding clearer timescales for when documents should be issued to customers
- adding a stage in the Sundry Debt Recovery process to include Collection Agents

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. Publicity Considerations

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

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

- 7.1 None.

Ethical Governance Statement 2018/19

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

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


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

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

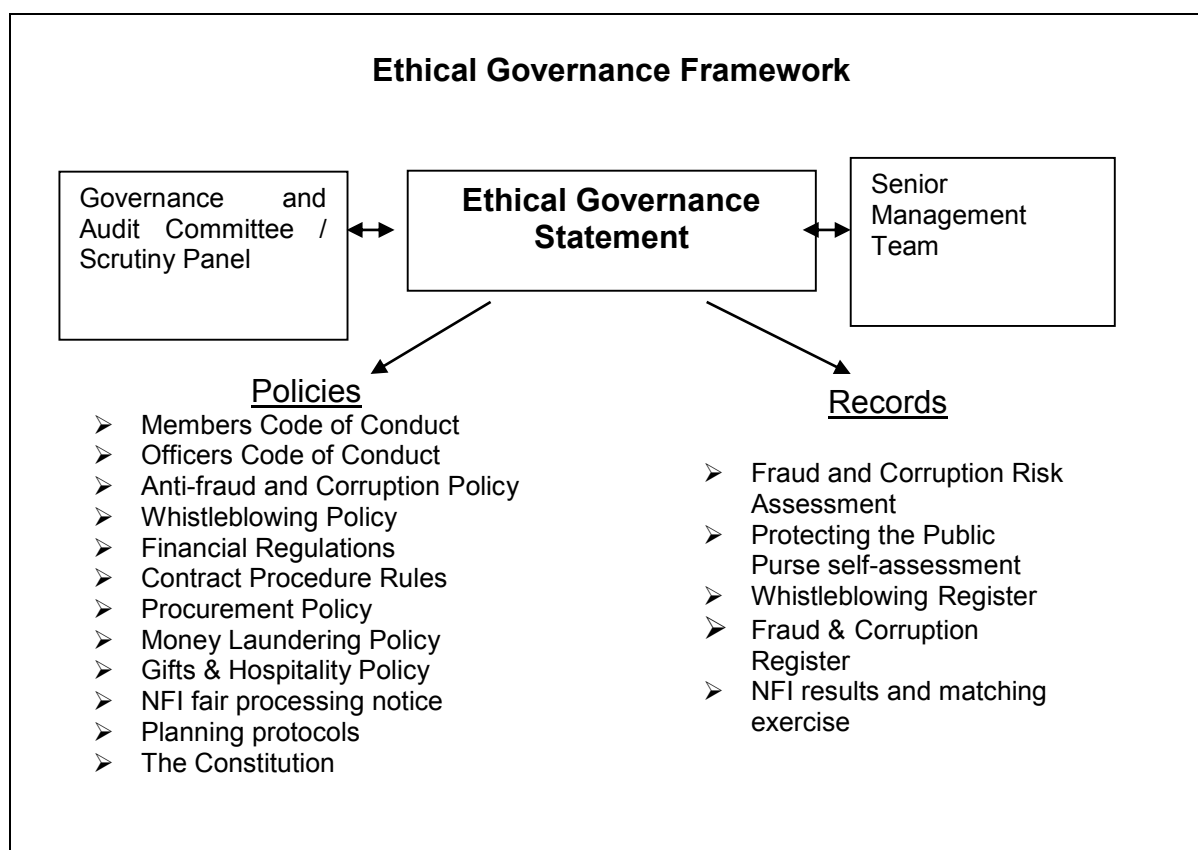
We will take all reasonable steps to ensure that concerns are investigated and appropriate action taken where necessary. There will be no distinction made in investigation between cases that generate financial benefits and those that do not.



Mark Cory
Leader of the Council



Adrian Pritchard
Chief Executive





Anti-Fraud and Corruption Policy 2018/19

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

October 2018

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

ANTI-FRAUD AND CORRUPTION POLICY

1.0 INTRODUCTION

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

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

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

This policy has been created with due regard to the CIPFA better Governance Forum's Red Book 2 'Managing the Risk of Fraud', the CIPFA 2014 Code of practise on managing the risk of fraud and corruption and the Audit Commission Publication 'Protecting the Public Purse'.

2.0 OVERVIEW

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

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

Fraud and corruption are defined as:

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

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

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

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

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

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

3.0 CULTURE

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

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

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

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

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

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

4.0 RESPONSIBILITIES AND PREVENTION

4.1 Responsibilities of Elected Members

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

4.2 Responsibilities of the Monitoring Officer

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

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

4.3 Responsibilities of the Section 151 Officer

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

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

- Compliance with the statutory requirements for accounting and internal audit;
 - Managing the financial affairs of the Council
 - The proper exercise of a wide range of delegated powers both formal and informal;
 - The recognition of the fiduciary responsibility owed to local tax payers.
- Under these statutory responsibilities the Section 151 Officer contributes to the anti-fraud and corruption framework of the Council.

4.4 Responsibilities of the Senior Management Team

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

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

4.5 Responsibilities of Employees

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

4.6 Role of Internal Audit

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

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

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

4.7 Role of the Benefits Investigation

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

4.8 Role of the Corporate Governance Team

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

4.9 Role of the External Auditors

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

4.10 Role of the Public

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

4.11 Conflicts of Interest

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

4.12 Official Guidance

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

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

5.0 DETECTION AND INVESTIGATION

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

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

Detailed guidance on the investigation process is available separately.

5.1 Disciplinary Action

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

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

5.2 Prosecution

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

5.3 Publicity

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

6.0 AWARENESS AND MONITORING

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

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

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



Whistleblowing Policy 2018/19

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

October 2018

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

WHISTLEBLOWING POLICY

1.0 Introduction

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

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

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

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

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

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

2.0 Aims and Scope of the Whistleblowing Policy

This policy aims to:

- Encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice without fear of recrimination.
- Provide avenues for you to raise those concerns and receive feedback on any action taken.
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- Reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.
- Advise you of the support that the Council will provide if you raise concerns in good faith.

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

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

This concern may be about something that:

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

3.0 Safeguards

3.1 Harassment or Victimisation

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

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

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

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

3.2 Confidentiality

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

3.3 Anonymous Allegations

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

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

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

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

3.4 Untrue Allegations

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

4.0 How to raise a concern

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

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

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

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

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

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

Chief Executive, Adrian Pritchard ☎ 282211

Monitoring Officer, Andrew Weavers ☎ 282213

Section 151 Officer, Sean Plummer ☎ 282347

Deputy Monitoring Officer, Hayley McGrath ☎ 508902

Deputy Monitoring Officer, Julian Wilkins ☎ 282257.

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

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

The Council has a dedicated email address whistleblowing@colchester.gov.uk

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

5.0 How the Council will respond

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

Where appropriate, the matters raised may be:

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

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

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

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

- acknowledging that the concern has been received
- indicating how it is proposed to deal with the matter
- giving an estimate of how long it will take to provide a final response
- informing you whether any initial enquiries have been made
- supplying you with information on staff support mechanisms, and
- informing you whether further investigations will take place and if not, why not.

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

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

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

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

6.0 The Responsible Officer

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

7.0 How the matter can be taken further

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

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

If you are considering taking the matter outside of the Council, you should ensure that you are entitled to do so and that you do not disclose confidential information. An independent charity, Public Concern at Work, can offer independent and confidential advice.

They can be contacted on ☎ 020 7404 6609 or by email at whistle@pcaw.co.uk

8.0 Questions regarding this policy

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

9.0 Review

This policy will be reviewed annually.



Anti-Money Laundering Policy 2018/19

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

October 2018

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

ANTI-MONEY LAUNDERING POLICY

1. Introduction

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

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

2. Scope of the Policy

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

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

3. Definition of Money Laundering

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

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

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

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

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

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

4. Requirements of the Money Laundering Legislation

The main requirements of the legislation are:

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

5. The Money Laundering Reporting Officer (MLRO)

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

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

6. Client Identification Procedures

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

If satisfactory evidence is not obtained at the outset of a matter, then the transaction must not be progressed and a disclosure report, available on the Hub, must be submitted to the Money Laundering Reporting Officer.

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

7. Reporting Procedure for Suspicions of Money Laundering

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

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

- Full details of the people involved

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

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

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

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

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

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

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

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

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

- reviewing other transaction patterns and volumes

- the length of any business relationship involved
- the number of any one-off transactions and linked one-off transactions
- any identification evidence held.

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

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

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

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

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

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

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

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

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

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

9. Training

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

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

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

10. Conclusion

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

11. Review

This policy will be reviewed annually.

CONFIDENTIAL

Appendix 1

REPORT TO MONEY LAUNDERING REPORTING OFFICER**RE: SUSPECTED MONEY LAUNDERING ACTIVITY**

To: Monitoring Officer, Money Laundering Reporting Officer
From: *[Name of employee]*
Department: *[Post title and Service Area]*
Ext / Tel No:

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

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

Yes ☐No ☐

If yes, please include details below:

Have you discussed your suspicions with anyone else?

Yes ☐No ☐

[Please tick relevant box]

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

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

If yes, please specify below:

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

If yes, please set out full details below:

Are you involved in a transaction which might be a prohibited act under sections 327-329 of the Act and which requires appropriate consent from the NCA

Yes ☐No ☐

[Please tick relevant box]

If yes, please include details below:

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

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

Signed:

Dated:



Code of Practice on Covert Surveillance 2018/19

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

October 2018

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

CODE OF PRACTICE ON COVERT SURVEILLANCE

1.0 INTRODUCTION

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

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

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

The Act sets out certain criteria that the Council has to comply with before it undertakes surveillance and those are also reflected in the 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:

<http://surveillancecommissioners.independent.gov.uk/>

The Investigatory Powers Commissioner's Office now has responsibility for oversight of investigatory powers from the Office of Surveillance Commissioners.

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, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and report suspicious transactions. Similarly, financial officials, accountants or company administrators may have a duty to provide information that they have obtained by virtue of their position to the Serious Fraud Office.

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

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

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

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

3.0 Areas of operation

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

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

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

4.0 AUTHORISATION AND AUTHORISING OFFICERS

If directed surveillance is proposed to be carried out then **authorisation must be sought**. Under the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003 as amended by the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 and the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2015, the Council considers that the following officers can authorise directed surveillance ("Authorising Officer"):

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

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

An Authorising Officer when being requested to authorise directed surveillance must be satisfied that the request is necessary and meets the criteria set down in the Act, the Code and the 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 Council's intranet COLIN.

11.0 GENERAL BEST PRACTICES

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

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

12.0 SENIOR RESPONSIBLE OFFICER

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

- the integrity of the process in place within the Council to authorise directed surveillance
- compliance with Part II of the Act, the Code and the 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



Annex1

Use of Social Media in Investigations Policy and Procedure 2018/19

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

CONTENTS

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

1.0 INTRODUCTION & BACKGROUND

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

2.0 REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

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

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

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

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

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

Facebook	Twitter	Instagram
LinkedIn	Pintrest	Tumblr
Reddit	Flickr	Google+

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

4.0 PRIVACY SETTINGS

- 4.1 The majority of Social Media services will allow its users to decide who can view their activity, and to what degree, through the use of privacy settings. Whilst some users are happy, or otherwise indifferent about who is able to view their information, others prefer to maintain a level of privacy.
- 4.2 Depending on their intentions, many users will purposely use Social Media with no privacy setting applied whatsoever. This could be due to the fact that they are actively promoting something, such as a business or event, and therefore require as many people as possible to be able to view their Social Media profile at all times; others may do so for reasons of self-promotion or even vanity. The information publicly available is known as an individual's public profile.
- 4.3 Those individuals with public profiles who operate on Social Media without any, or only limited, forms of privacy settings being activated do so at their own risk. Often, Social Media sites will advise its users through its terms and conditions of the implications of not activating privacy controls, namely that all content they publish or share will be viewable by everyone, including sometimes people who, themselves, do not have an account with that provider.
- 4.4 Whilst the content or information shared by individuals on Social Media remains the property of that individual, it is nonetheless considered to be in the public domain. Publishing content or information using a public, rather than a private setting, means that the individual publishing it is allowing everyone to access and use that information, and to associate it with them.
- 4.5 The opposite of a public profile is a private profile. Some users of Social Media will not wish for their content, information or interactions to be

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

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

5.0 WHAT IS PERMITTED UNDER THIS POLICY

- 5.1 Whether or not Social Media can be used in the course of investigating an offence, or potential offence, will depend on a number of things, not least of which is whether the suspect has a Social Media presence at all. Investigating offences will always be a multi-layered exercise utilising all manner of techniques, and it is important not to place too high an emphasis on the use of Social Media in place of more traditional investigative approaches.
- 5.2 Further to this, a lack of information on an individual's Social Media profile should not be taken as evidence that something is or is not true. For example, a lack of evidence corroborating an individual's assertions that they were at a particular location on a specific day does not prove that they are being misleading and it is important to consider it only as part of a well-rounded investigation.
- 5.3 For those individuals who do have a presence on Social Media, a lot of what is permitted under this policy for use in investigations will depend on whether they have a public or private profile. As outlined in 4.4 above, where a person publishes content on a public profile, they allow everyone, including those not on that particular Social Media platform, to access and use that information whilst also allowing it to be associated with them.
- 5.4 In practice, this means that things such as photographs, video content or any other relevant information posted by individuals and businesses to a public profile on any given Social Media platform can be viewed, recorded and ultimately used as evidence against them should the matter end in legal proceedings, subject to the usual rules of evidence.

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

6.0 WHAT IS NOT PERMITTED UNDER THIS POLICY

- 6.1 When it is discovered that an individual under investigation has set their Social Media account to private, Officers should not attempt to circumvent those settings under any circumstances. Such attempts would include, but are not limited to;
- sending "friend" or "follow" requests to the individual,
 - setting up or using bogus Social Media profiles in an attempt to gain access to the individual's private profile,
 - contacting the individual through any form of instant messaging or chat function requesting access or information,
 - asking family, friends, colleagues or any other third party to gain access on their behalf, or otherwise using the Social Media accounts of such people to gain access, or
 - any other method which relies on the use of subterfuge or deception.

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

- 6.2 A distinction is made between one-off and repeated visits to an individual's Social Media profile. As outlined at paragraph 2 above, a RIPA authorisation must be sought in order to carry out directed surveillance against an individual. Whilst one-off visits, or otherwise infrequent visits spread out over time, cannot be considered "directed surveillance" for the purposes of RIPA, repeated or frequent visits may cross over into becoming "directed surveillance" requiring RIPA authorisation. A person's Social Media profile should not, for example, be routinely monitored on a daily or weekly basis in search of updates, as this will require RIPA authorisation, the absence of which is an offence. For further guidance on this point, officers should contact Legal Services.
- 6.3 Regardless of whether the Social Media profile belonging to a suspected offender is set to public or private, it should only ever be used for the purposes of evidence gathering. Interaction or conversation of any kind should be avoided at all costs, and at no stage should a Council Officer seek to make contact with the individual through the medium of Social Media. Any contact that is made may lead to accusations of harassment or, where a level of deception is employed by the Officer, entrapment,

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

7.0 CAPTURING EVIDENCE

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

8.0 OTHER INFORMATION TECHNOLOGY TOOLS AVAILABLE FOR INVESTIGATIVE PURPOSES

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

9.0 RETENTION AND DESTRUCTION OF INFORMATION

- 9.1 Where recorded material (in any form or media) is obtained during the course of an investigation which might be relevant to that investigation, or another investigation, or to pending or future civil or criminal proceedings, then it should **not** be destroyed, but retained in accordance with the requirements of the Data Protection Act 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.



Information Security Policy 2018/19

A guide to the Council's approach to
safeguarding information resources.

October 2018

Contents	Page
1. Introduction	1
2. Statement of Policy	1
3. Obligations Bookmark not defined.	Error!
4. Roles and Responsibilities Bookmark not defined.	Error!

1. Introduction

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

2. Statement of Policy

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

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

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

3. Obligations

- Only access systems and information for which you are authorised.
- Only use systems and information for the purposes authorised.
- Comply with all applicable legislation and regulation.
- Comply with controls communicated by the Information Asset Owner.
- Do not disclose confidential or sensitive information to anyone without the permission of the Information Asset Owner.
- Ensure confidential or sensitive information is protected from view by unauthorised individuals.
- Do not copy, transmit or store information to devices or locations (physical or digital) where unauthorised individuals may gain access to it; the security of devices and locations you use are your responsibility.
- Protect information from unauthorised access, disclosure, modification, destruction or interference.
- Keep passwords secret and do not allow anyone else to use your access to systems and accounts.
- Notify the Information Security Manager of any actual or suspected breach of information security policy and assist with resolution
- Co-operate with compliance, monitoring, investigatory or audit activities in relation to information.

4. Roles and Responsibilities

The Organisation

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

The Chief Executive

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

Senior Information Risk Owner

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

Information Security Manager

- Manages the investigation and mitigation of information breaches.
- Supports Information Asset Owners to assess risks and implement controls

Information Asset Owners

- Assess the risks to the information they are responsible for.
- Define the protection measures of the information they are responsible for, taking consideration of the sensitivity and value of the information.
- Communicate the protection controls to authorised users and ensure controls are followed.

Directors, Managers and Line Managers

- Ensure their employees are fully conversant with this policy and all associated standards, procedures, guidelines and relevant legislation; and are aware of the consequences of non-compliance.
- Develop procedures, processes and practices which comply with this policy for use in their business areas.
- Ensure all contractors and other third parties to which this policy may apply are aware of their requirement to comply.

Employees

- Conduct their business in accordance with this policy.
- Take responsibility for familiarising themselves with this policy and understanding the obligations it places on them.

Disclaimer:

A printed version may not be the current version.

A current version may be obtained in the required format from Colchester Borough Council's ICT team.



Data Protection Policy 2018/19

A statement of the Council's
implementation of the principles set
out in the Data Protection Act 2018

October 2018

Contents

Page

1.	Context	1
2.	Application of Policy	1
3.	The Principles of Data Protection	2
4.	Definition of Personal and Sensitive Data	2
5.	Roles and Responsibilities	3
6.	Councillors	5
7.	The Information Commissioner	5

1. CONTEXT

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

2. APPLICATION OF POLICY

- 2.1 The Council fully endorses and adheres to the principles set out in the Data Protection legislation (Data Protection Act 2018 and General Data Protection Regulations). The Council will therefore ensure that all employees, elected members, contractors, agents, consultants, partners or anyone else who has access to any personal data held by or for the Council are fully aware of and abide by their duties and responsibilities under data protection legislation.
- 2.2 This Policy and the procedures set down in it are reviewed annually to ensure that the Council continues to comply with all relevant statutory requirements.
- 2.3 The Council will ensure that all personal data is handled properly and with confidentiality at all times, irrespective of whether it is held on paper or by electronic means.

This includes:

- the obtaining of personal data;
 - the storage and security of personal data;
 - the use and processing of personal data;
 - the disposal of or destruction of personal data.
- 2.4 The Council will ensure that data subjects have appropriate access, upon written request, to personal information relating to them and will ensure the data subjects rights to rectification, erasure, restriction, portability and object are adhered to.

3. THE PRINCIPLES OF DATA PROTECTION

3.1 Whenever collecting or handling information about people the Council will:

- Ensure that personal data is processed, lawfully, fairly and in a transparent manner;
- Ensure that the purposes for which personal data is obtained and processed are specified and that data is not used for any other purpose;
- Ensure that processing of personal data is adequate relevant and limited to what is necessary;
- Ensure that any data used or kept is accurate and up to date;
- Ensure that personal data is retained only for as long as necessary;
- Ensure that data is disposed of properly;
- Ensure that all personal data is processed in accordance with the rights of the individual concerned;
- Ensure that personal data is processed in an appropriate manner to maintain security;
- Ensure that the movement of personal data is done in a lawful way, both inside and outside the Council, and that suitable safeguards exist, at all times.

4. DEFINITION OF PERSONAL AND SENSITIVE DATA

4.1 The legislation makes a distinction between 'personal data' and 'personal sensitive data':

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

4.3 Personal sensitive data is defined as personal data consisting of information as to:

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

5. ROLES AND RESPONSIBILITIES

5.1 Colchester Borough Council will ensure that:

- A member of staff, the Data Protection Officer (DPO), is appointed who has specific responsibility for data protection within the Council;
- Any disclosure of personal data is, in compliance with the law and with approved procedures;
- Anyone managing and handling personal information understands that they are legally bound to follow good data protection practice;
- Anyone managing and handling personal information is appropriately trained and supervised;
- Members of staff have access only to personal information relevant to their roles;
- Appropriate advice and guidance is available to anyone wanting to make enquiries about personal information held by the Council;
- Enquiries and requests regarding personal information are handled courteously and within the time limits set out in law;
- All councillors are to be made fully aware of this policy and of their duties and responsibilities under legislation;
- Where personal data may need to be shared with third parties in order to deliver services or perform our duties, the Council will only share personal data when a lawful basis from the legislation can justify that sharing, where it is necessary to achieve a clear purpose and, with that purpose in mind, it is fair and proportionate to do so;
- Data Protection Impact Assessments (DPIA) are conducted, and signed off by the Data Protection Officer and the Senior Information Risk Owner (SIRO) where processing presents a high risk to the privacy of data subjects;
- A record of personal data processing is kept and maintained, this will include a data classification.

5.2 All managers and staff will ensure that:

- Paper files and other records or documents containing personal and or sensitive data are kept securely and destroyed securely;
- Personal data held electronically is protected by the use of secure passwords which are changed regularly;
- All users must choose passwords which meet the security criteria specified by the Council;
- Staff working remotely from home or elsewhere must keep any Council owned equipment they use secure and prevent systems and data for which the Council is responsible being used or seen by members of their family or any other unauthorised person;
- Ensure that no personal data is disclosed either verbally or in writing, accidentally or otherwise, to any unauthorised third party;
- Ensure that personal data is not be left where it can be accessed by persons not authorised to see it;

- Take measures to ensure that personal data is kept up to date and accurate;
- Ensure that all personal data is kept in accordance with the Council's retention schedule;
- Ensure that any data protection breaches are swiftly brought to the attention of the Data Protection Officer and that they support the Data Protection Officer assistance in resolving breaches;
- Where there is uncertainty around a data protection matter advice is sought from the Data Protection Officer.

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

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

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

- Advising the Council and its staff of its obligations under data protection legislation;
- Ensuring the provision of cascade data protection training, for staff within the Council;
- The development of best practice guidelines;
- Ensuring compliance checks are undertaken to ensure adherence, throughout the authority, with Data Protection legislation;
- Providing advice where requested on data protection impact assessments;
- To co-operate with and act as the contact point for the Information Commissioner's Office;
- For conducting an annual review of this Data Protection Policy and the practices and procedures pertaining to it to ensure continuing compliance with all relevant statutory provisions.

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

- Being the organisation's leader and Champion for Information Risk Management and Assurance;
- Advocating good information management and security practices;
- Acting in an arbitrary role – to challenge risk mitigation;
- Ensuring others are undertaking risk assessments and assurance activities;
- Reporting annually to the Accountable Officer;
- Being the senior manager with accountability for data protection and information risk and provides a link to the Council's senior management team (SMT).

5.6 An officer has also been designated in each service as responsible for ensuring that this Policy is adhered to.

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

6. COUNCILLORS

6.1 This policy applies to councillors, and all councillors are made aware of the advice produced by the Information Commissioners Office, which can be read by clicking on the link below:

<https://ico.org.uk/media/for-organisations/documents/1432067/advice-for-elected-and-prospective-councillors.pdf>

6.2 Councillors must be registered with the Information Commissioner as data controllers.

7. THE INFORMATION COMMISSIONER

7.1 Colchester Borough Council is registered with the Information Commissioner as a data controller.

7.2 The Data Protection Act 2018 requires every data controller who is processing personal data to notify and renew their notification on an annual basis. Failure to do so is a criminal offence.

7.3 Designated officers will be responsible for notifying and updating the Data Protection Officer with regard to the processing of personal data within their department.

7.4 The Data Protection Officer will review the Information Asset Register with designated officers annually.

FURTHER INFORMATION

Contact

ICT

ICT@colchester.gov.uk

Data Protection Officer

DPO@colchester.gov.uk

01206 507340

In the event of an information breach, or suspected breach, contact the ICT team and the Data Protection Officer.



Acceptable Use Policy 2018/19

A statement of how the Council will
use and access customer
information

October 2018

Contents

Page

1.	Context	1
2.	Application of Policy	1
3.	Obligations	1
4.	Monitoring	2

1. CONTEXT

- 1.1 We must act appropriately with the information we obtain and hold, and with the systems we use and access. How you use our systems, telephony, email and intranet is important for our reputation and the trust of our customers.

2. APPLICATION OF POLICY

- 2.1 Everyone who uses information and communications technology provided by Colchester Borough Council (or technology under any ownership used in the course of the business of this organisation) must be aware of these policy statements and the obligations it places upon them.
- 2.2 Colchester Borough Council commits to informing all employees, members, voluntary workers, agency staff, contractors and other third parties of their obligations before they are authorised to access systems and information and subsequently at regular intervals. Other organisations, and their users, granted access to technology managed by the organisation must abide by this policy.
- 2.3 All those who access information and communications technology may be held personally responsible for any loss or misuse, including data breaches.

3. OBLIGATIONS

- You must not install, access or modify applications, systems or data without authorisation.
- You must maintain the security of information as defined in the Information Security Policy.
- You must not access other people's email without their permission.
- You must not participate in unlawful, libellous, immoral or offensive activities, including accessing, downloading, storing, creating, copying or disseminating offensive material. This includes, but is not limited to, material of a pornographic, sexual, violent, criminal, racist, sexist or otherwise discriminatory nature. Further, you must not use the systems to perpetrate any form of fraud or piracy.
- You must not publish a website, or any content on a website, that could bring the organisation into disrepute. This includes publishing defamatory or knowingly false material about the organisation, colleagues or customers in any online publishing format.
- You must not disclose your password to anyone or ask anyone else for their password. If you suspect your password has become known to anyone else, change it immediately and report it to the ICT team.
- Only subscribe to services with your professional email address when representing the organisation.

- CBC facilities and identity must not be used for commercial purposes outside the authority or remit of this organisation, or for personal financial gain.
- You must not attempt to disable or bypass anti-virus, malware or other security protection, and you should take care not to introduce viruses or malware. If you discover a virus or malware, you must notify ICT immediately.
- You must only use software that is appropriately licensed and materials which are not copyrighted, or for which you have been granted use.
- If you receive or view email or other content not intended for you, protect its confidentiality.
- Take care when replying or forwarding to ensure that only relevant parties are included.
- Report faults with information and communications technology and co-operate with fault diagnosis and resolution.
- If you use our technology or our internet provision for personal use, the organisation takes no responsibility for the security of your personal information. It is recommended you do not carry out personal financial transactions.

4. MONITORING

- 4.1 The organisation maintains the right to examine any system or device used in the course of our business, and to inspect any data held there.
- 4.2 To ensure compliance with this policy, the volume of internet and network traffic, and the use and content of emails and visited internet sites, may be monitored. Specific content will not be monitored unless there is suspicion of improper use.

FURTHER INFORMATION

Also see

Information Security Policy

Contact

ICT

ICT@colchester.gov.uk

01206 507340

In the event of a password breach, or suspected breach, contact the ICT team.



Income & Debt Management Policy

Customer Solutions

October 2018

Contents

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

Appendices

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

1. Introduction

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

2 Policy Aims

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

3. Billing and Invoicing Arrangements

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

	<i>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 offers the following payment methods:

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

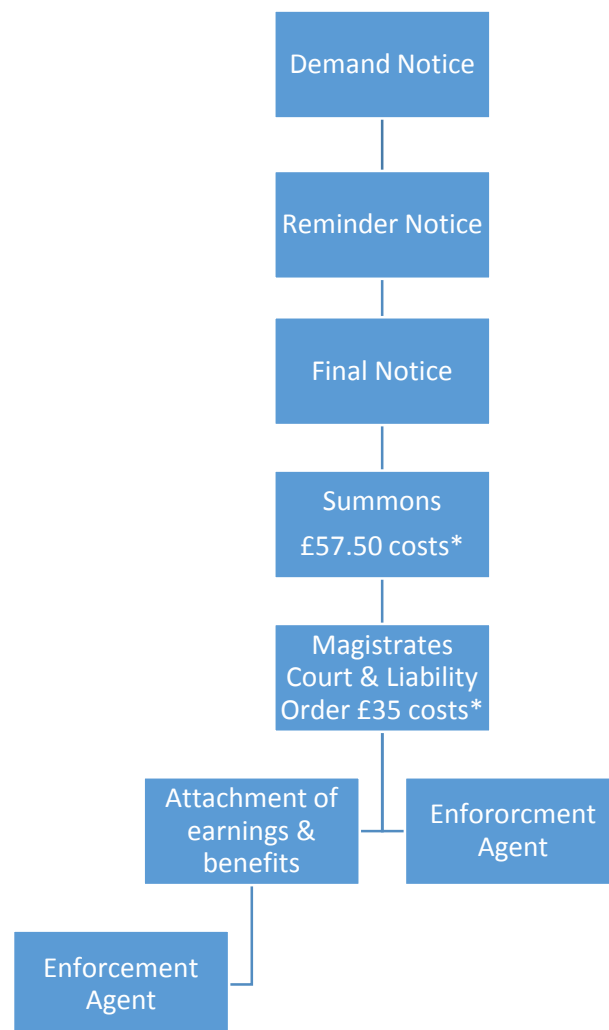
4.3 Services should remove any payment options from promotional materials, bills or other correspondence other than the preferred payment methods. For recurring or regular charges Direct Debit must be promoted as the payment option. For one off charges an upfront debit card internet payment should be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

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

5. Recovery of unpaid debts

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

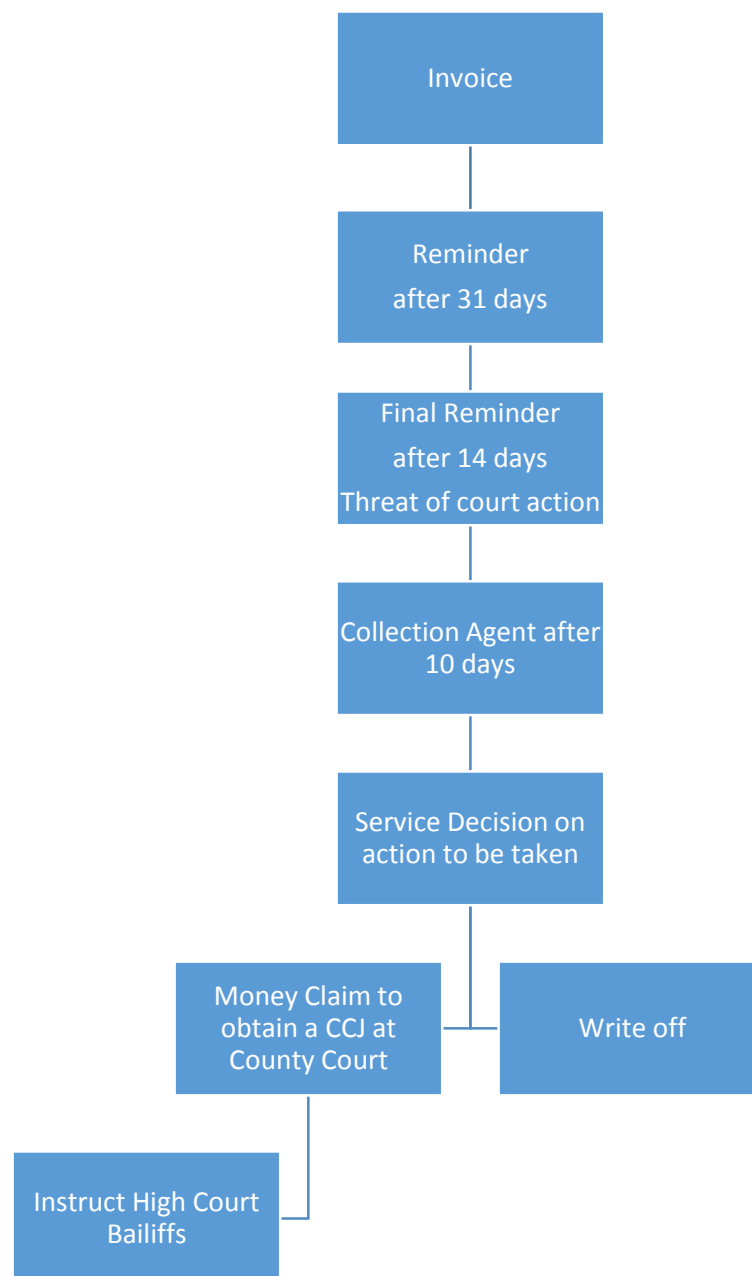
6.1 Council Tax and Business Rates Process



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

7. Sundry Debt Processes

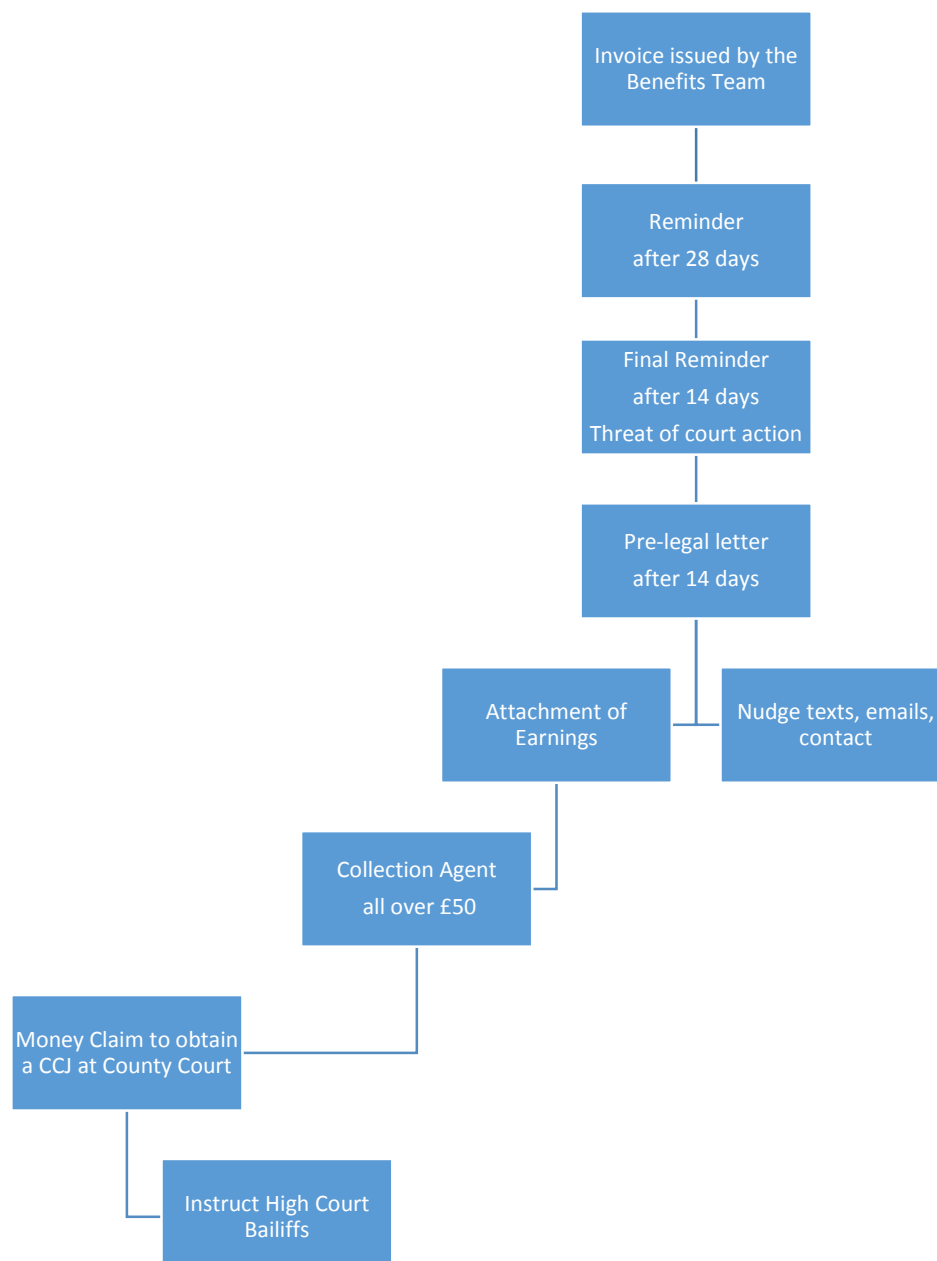
- 7.1 In the cases of sundry debts it is the service or relevant manager who should decide whether enforcement action should be taken. The Income Team will inform services of any debts owing to them and they should respond to say whether each case should then be enforced.



- 7.2 Actions within sundry debt recovery should be complete in a timely manner. Where delays of over 28 days past the due date are encountered at any stage, the reasons should be detailed within the case notes on system.
- 7.3 Forfeiture can also be considered for the recovery of commercial rent. This is where the Council will forfeit a lease due to non-payment of rent. The Council will instruct an Enforcement Agent to carry out the process of securing the property.

8. Housing Benefit Overpayment

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



9. Enforcement

- 9.1 The Council will use all means at its disposal to ensure that any debts owed are recovered following any relevant statutory or civil process to enforce payment.
- 9.2 When initiating recovery action the officer must also consider whether the debtor is vulnerable and how any action would impact on them.
- 9.3 The following enforcement options will be considered by Council Officers (as well as other options specific to an individual case):

10. Enforcement Agents (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.

Appendix H – Income and Debt Management Policy

- 16.2 If a customer is unhappy with the service provided or disagrees with the decisions made they are able to complain through the Councils standard complaints procedure. Details of this can be found on the Council website - <http://www.colchester.gov.uk/complaints>.
- 16.3 During the process of enforcing payment of outstanding debts it is possible that evidence or facts emerge after enforcement proceedings have been taken or have been completed.
- 16.4 In these cases the Council will take appropriate action to remedy the situation as far as possible:
- Proceedings will be stopped immediately
 - The debtors account will be noted to reflect the revised situation
 - Where appropriate the Court involved will be advised
- 16.5 Although the Council will make every effort to resolve a misrepresentation of the true situation, some issues can only be resolved by reference to the Courts.

Appendix 1

Standard Enforcement Actions for Mortgages and Shared Ownership Scheme

Individual accounts are monitored on a regular basis to ensure that regular monthly payments are received, and reminders sent. Where all or part of the debt is paid by the Pensions Service or the Benefits Division, the receipt of these sums will also be monitored. Whilst standard reminders are available, a more personal approach will often be required.

If the debtor fails to maintain regular payments the Corporate Debt Team will attempt to discuss options. Should this not prove possible, or if arrangements are not adhered to, then the following action will be taken:

Mortgages

Legal Services will be approached and given sufficient information to allow for the preparation of a possession order to be requested from the District Judge. Whilst Court papers are being prepared, Legal Services will warn the debtor of the implications of non-payment.

If a possession order is obtained, the Income Management Team will monitor the arrangement made. Should payment cease, a Portfolio Holder decision will be required if it becomes necessary to implement the order.

Shared ownership cases

Where a mortgage is held on the property, then the lender will be advised that rent is not being paid and that forfeiture proceedings are being considered. If the lender will not make payment on behalf of the borrower, or if there is no lender, the Council will decide whether to pursue forfeiture or to attempt to obtain a money judgment for the County Court.

Appendix 2

Standard Enforcement Actions for Penalty Charge Notices (North Essex Parking Partnership)

This debt is collected directly by the North Essex Parking Partnership and not Customer Services.

Parking enforcement is carried out in accordance with the provisions and procedures laid out in the Traffic Management Act 2004. A parking penalty is not a debt until the motorist has exhausted all avenues of appeal.

- 1. Penalty Charge Notice** issued.
- 2. DVLA enquiry** made if no correspondence received or payment received within 31 days.
- 3. Notice to Owner** sent if full payment is not received within 31 days of issue.
- 4. Charge Certificate** sent and charge increased by 50% of full payment, or representation against Notice to Owner, if not received within 31 days.
- 5. Debt registered at County Court** and fees added if full payment is not received within 17 days of Charge Certificate being sent.
- 6. Order for Recovery** sent.
- 7. Apply for a Warrant of Execution and instruct Enforcement Agents (bailiffs)** if full payment or Witness Statement is not received within 21 days of Notice of Debt Registration being sent. A Warrant of Execution has a lifespan of 12 months only and cannot be reissued thereafter. If the Council has been unsuccessful in recovering the penalty charge by means of a Warrant within 12 months and wishes to pursue, the Council must ask the Traffic Enforcement Centre (Northampton County Court) for authorisation to prepare another Warrant. Warrants that have been returned from the Bailiff after a period of 6 months because the debtor could not be traced or there are no funds or goods to seize can be sent to other Bailiff companies for collection.
- 8.** If warrants remain unpaid, the council is now able to recover debt using a different process where a valid warrant is not required.