

Governance and Audit Committee Meeting

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

Tuesday, 26 November 2019 at 18:00

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

Information for Members of the Public

Access to information and meetings

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

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

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

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>.

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Access

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

Accounts and Audit

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

Governance

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

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

Other regulatory matters

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

To determine and approve Community Governance Reviews.

Standards in relation to Member Conduct

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

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

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

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

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

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

General

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

COLCHESTER BOROUGH COUNCIL
Governance and Audit Committee
Tuesday, 26 November 2019 at 18:00

The Governance and Audit Committee Members are:

Councillor Chris Pearson
Councillor Sam McCarthy
Councillor Nick Barlow
Councillor Paul Dundas
Councillor Mark Goacher
Councillor Dennis Willetts
Councillor Barbara Wood

Chairman
Deputy Chairman

The Governance and Audit Committee Substitute Members are:

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

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

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

1 Welcome and Announcements

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

2 Substitutions

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

3 Urgent Items

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

4 Declarations of Interest

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 Have Your Say!

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

6 Minutes of Previous Meeting

No minutes of previous meetings are submitted for approval to this meeting.

7 Review of the Council's Ethical Governance Policies 9 - 100

The Committee will consider a report to review the Council's updated Ethical Governance policies. These are the key policies which set out the standards of conduct and integrity that the Council expects of councillors, staff, partners, suppliers and customers when conducting Council business. They contain procedures for dealing with breaches of the policies and processes to be followed.

8 Annual review of the Members' Code of Conduct and the Council's Localism Act Arrangements 101 - 104

The Committee will consider a report reviewing the Councillors' (Members') Code of Conduct, the Council's Localism Act Arrangements for dealing with complaints made regarding councillors and to make recommendations to Full Council regarding any amendments. The report also provides an update on the number and types of complaints received under the Members' Code of Conduct.

9 Review of Local Code of Corporate Governance 105 - 136

The Committee will consider a report reviewing the Local Code of Corporate Governance for 2019/20. The Local Code of Corporate Governance is how the Council demonstrates that its structures comply with the recognised principles of good governance.

10 Gifts and Hospitality – Review of Guidance for Councillors and Policy for Employees 137 - 148

The Committee will consider a report inviting it to approve updated guidance for councillors and policy for employees. The Council provides guidance for councillors regarding any gifts and hospitality received in their role as a councillor. The Council has also adopted a policy for its employees in relation to any gifts and hospitality received.

11 Review of Member / Officer Protocol 149 - 158

The Committee will consider a report reviewing the Member / Officer Protocol which provides a framework for good working relationships between Councillors and Officers.

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| 12 | <p>Guidance for Members on Dispensations</p> <p>The Committee will consider a report on the guidance it provides on its process for councillors regarding the granting of dispensations for councillors who, due to having a Disclosable Pecuniary Interest, are precluded from participating on agenda items.</p> | 159 -
168 |
| 13 | <p>Guidance for Councillors and Officers on Outside Bodies</p> <p>The Committee will consider a report providing guidance for councillors and officers who are appointed by it to outside bodies and their respective roles and responsibilities.</p> | 169 -
182 |
| 14 | <p>Annual Review of Business Continuity</p> <p>The Committee will consider a report providing Members with an overview of the of the Council's Business Continuity activity for the period from 01 October 2018 to 30 September 2019.</p> | 183 -
194 |
| 15 | <p>Treasury Management Strategy - Mid Year Review Report 2019/20</p> <p>The Committee will consider a report on the mid-year review of the Council's treasury management.</p> | 195 -
206 |
| 16 | <p>Work Programme 2019-20</p> <p>The Committee will consider a report which sets out the current Work Programme 2019-2020 for the Governance and Audit Committee.</p> | 207 -
210 |
| 17 | <p>Exclusion of the Public (not Scrutiny or Executive)</p> <p>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).</p> | |

Part B

(not open to the public including the press)

18 Treasury Management Strategy 2019-2020

The Committee will consider a not for publication appendix to the report at item 15 of the agenda.

26 November 2019

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 review the following revised policies:

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

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

3. Background

- 3.1 The Council is committed to maintaining the highest standards of governance including the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly, openly and accountably in order to protect public safety and public money.
- 3.2 A varied range of policies and procedures form the Corporate Governance framework and a selection of these relate to Ethical Governance - those specifically regarding conduct and integrity.
- 3.3 The Ethical Governance policies set out the standards of conduct and integrity that it expects from staff, elected members, suppliers, partners, volunteers and the public. Breaches of the policies will be pursued and procedures have been introduced to enable

any person to raise genuine concerns they may have about the conduct of anybody acting for or on behalf of the Council.

- 3.4 At its meeting on 6 December 2018 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.

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 30 October 2018. The Ethical Governance policies were subsequently adopted as part of the Council's Policy Framework by Full Council.

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

Policy	No. of times invoked during 2017/18	No. of times invoked during 2018/19	Whether procedures effective
Anti-Fraud and Corruption	None	None	n/a
Whistleblowing	None	1	Yes, procedure effective
Anti-Money Laundering	None	None	n/a
Covert Surveillance	None	None	n/a
Information Security	None	None	n/a
Data Protection	None	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 and refresher training will be provided going forward.
- 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 In addition the Council has refreshed its Data Retention Policy in light of the Data Protection Act 2018. and This policy is broadly to ensure that that all personal data held by the Council is retained and disposed of correctly. This policy has now been included within the suite of Ethical Governance Policies.

- 4.6 The Income & Debt Management Policy has been reviewed and there are no proposed changes for this year. The processes are still relevant and meet legislative requirements, whilst supporting strong collection rates. During the last full financial year, the Council achieved its highest ever collection rates for Council Tax and Business Rates, achieving 97.91% collection of Council Tax, with an increase in tax base of £6.65million and achieving collection of 99.36% for Business Rates.
- 4.7 The Council continues to improve processes to support residents and businesses to pay on time, including the use of text messages, email and more complex enforcement where necessary. It is proposed to undertake a full review of the policy in 2020 to integrate emerging technology and legislation.

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.

Anti-Fraud and Corruption Policy 2019/20

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

November 2019

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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 2019/20

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

November 2019

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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, Paul Cook ☎ 505861

Deputy Monitoring Officer, Hayley McGrath ☎ 508902

Deputy Monitoring Officer, Julian Wilkins ☎ 282257.

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

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

The Council has a dedicated email address whistleblowing@colchester.gov.uk

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

website: www.whistleblowing.org.uk

8.0 Questions regarding this policy

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

9.0 Review

This policy will be reviewed annually.



Anti-Money Laundering Policy 2019/20

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

November 2019

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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:

Use of Social Media in Investigations Policy and Procedure 2019/20

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

USE OF SOCIAL MEDIA IN INVESTIGATIONS

POLICY AND PROCEDURES

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1.0 INTRODUCTION & BACKGROUND

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

2.0 REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

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

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

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

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

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

Facebook	Twitter	Instagram
LinkedIn	Pintrest	Tumblr
Reddit	Flickr	Google+

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

4.0 PRIVACY SETTINGS

- 4.1 The majority of Social Media services will allow its users to decide who can view their activity, and to what degree, through the use of privacy settings. Whilst some users are happy, or otherwise indifferent about who is able to view their information, others prefer to maintain a level of privacy.
- 4.2 Depending on their intentions, many users will purposely use Social Media with no privacy setting applied whatsoever. This could be due to the fact that they are actively promoting something, such as a business or event, and therefore require as many people as possible to be able to view their Social Media profile at all times; others may do so for reasons of self-promotion or even vanity. The information publicly available is known as an individual's public profile.
- 4.3 Those individuals with public profiles who operate on Social Media without any, or only limited, forms of privacy settings being activated do so at their own risk. Often, Social Media sites will advise its users through its terms and conditions of the implications of not activating privacy controls, namely that all content they publish or share will be viewable by everyone, including sometimes people who, themselves, do not have an account with that provider.
- 4.4 Whilst the content or information shared by individuals on Social Media remains the property of that individual, it is nonetheless considered to be in the public domain. Publishing content or information using a public, rather than a private setting, means that the individual publishing it is allowing everyone to access and use that information, and to associate it with them.
- 4.5 The opposite of a public profile is a private profile. Some users of Social Media will not wish for their content, information or interactions to be viewable to anyone outside of a very small number of people, if any. In

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

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

5.0 WHAT IS PERMITTED UNDER THIS POLICY

- 5.1 Whether or not Social Media can be used in the course of investigating an offence, or potential offence, will depend on a number of things, not least of which is whether the suspect has a Social Media presence at all. Investigating offences will always be a multi-layered exercise utilising all manner of techniques, and it is important not to place too high an emphasis on the use of Social Media in place of more traditional investigative approaches.
- 5.2 Further to this, a lack of information on an individual's Social Media profile should not be taken as evidence that something is or is not true. For example, a lack of evidence corroborating an individual's assertions that they were at a particular location on a specific day does not prove that they are being misleading and it is important to consider it only as part of a well-rounded investigation.
- 5.3 For those individuals who do have a presence on Social Media, a lot of what is permitted under this policy for use in investigations will depend on whether they have a public or private profile. As outlined in 4.4 above, where a person publishes content on a public profile, they allow everyone, including those not on that particular Social Media platform, to access and use that information whilst also allowing it to be associated with them.
- 5.4 In practice, this means that things such as photographs, video content or any other relevant information posted by individuals and businesses to a public profile on any given Social Media platform can be viewed, recorded and ultimately used as evidence against them should the matter end in legal proceedings, subject to the usual rules of evidence.

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

6.0 WHAT IS NOT PERMITTED UNDER THIS POLICY

- 6.1 When it is discovered that an individual under investigation has set their Social Media account to private, Officers should not attempt to circumvent those settings under any circumstances. Such attempts would include, but are not limited to;
- sending "friend" or "follow" requests to the individual,
 - setting up or using bogus Social Media profiles in an attempt to gain access to the individual's private profile,
 - contacting the individual through any form of instant messaging or chat function requesting access or information,
 - asking family, friends, colleagues or any other third party to gain access on their behalf, or otherwise using the Social Media accounts of such people to gain access, or
 - any other method which relies on the use of subterfuge or deception.

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

- 6.2 A distinction is made between one-off and repeated visits to an individual's Social Media profile. As outlined at paragraph 2 above, a RIPA authorisation must be sought in order to carry out directed surveillance against an individual. Whilst one-off visits, or otherwise infrequent visits spread out over time, cannot be considered "directed surveillance" for the purposes of RIPA, repeated or frequent visits may cross over into becoming "directed surveillance" requiring RIPA authorisation. A person's Social Media profile should not, for example, be routinely monitored on a daily or weekly basis in search of updates, as this will require RIPA authorisation, the absence of which is an offence. For further guidance on this point, officers should contact Legal Services.
- 6.3 Regardless of whether the Social Media profile belonging to a suspected offender is set to public or private, it should only ever be used for the purposes of evidence gathering. Interaction or conversation of any kind should be avoided at all costs, and at no stage should a Council Officer seek to make contact with the individual through the medium of Social Media. Any contact that is made may lead to accusations of harassment or, where a level of deception is employed by the Officer, entrapment,

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

7.0 CAPTURING EVIDENCE

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

8.0 OTHER INFORMATION TECHNOLOGY TOOLS AVAILABLE FOR INVESTIGATIVE PURPOSES

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

9.0 RETENTION AND DESTRUCTION OF INFORMATION

- 9.1 Where recorded material (in any form or media) is obtained during the course of an investigation which might be relevant to that investigation, or another investigation, or to pending or future civil or criminal proceedings, then it should **not** be destroyed, but retained in accordance with the requirements of the Data Protection Act 2018 , the Freedom of Information Act 2000, and any other legal requirements, including those of confidentiality, and the Council's policies and procedures regarding document retention. Advice should be sought from the Data Protection Officer or the Monitoring Officer.
- 9.2 Personal data gathered by the Council is subject to the Data Protection Act 2018. When considering whether to retain the data, the Council should:
- review the length of time it keeps personal data;
 - consider the purpose or purposes it holds the information for in deciding whether (and for how long) to retain it;
 - 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.



Code of Practice on Covert Surveillance 2019/20

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

November 2019

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CODE OF PRACTICE ON COVERT SURVEILLANCE

1.0 INTRODUCTION

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

The Investigatory Powers Commissioner's Office now has responsibility for oversight of investigatory powers from the Office of Surveillance Commissioners.

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

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

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

This policy sets out how Colchester Borough Council (including Colchester Borough Homes) will comply with the Act, the Code and the 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



Information Security Policy

November 2019



Customer Business Culture

Information Security Policy

CONTEXT

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

APPLICATION OF POLICY

Everyone who accesses information the 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, Councillors, 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.

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

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

INFORMATION SECURITY PRINCIPLES

Information security is the preservation of:

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

ROLES AND RESPONSIBILITIES

The Organisation

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

The Chief Executive

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

Senior Information Risk Owner

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

Information Security Manager

- Provides a central point of contact for information security
- Manages the investigation and mitigation of information security breaches
- Supports Information Asset Owners to assess risks and implement controls
- Ensures that staff are unable to gain unauthorised access to council IT systems
- Ensures the security of the central computer suite, ensuring that access is restricted to staff with specific job functions
- Ensures that all system developments comply with the Council's IT Strategy. All system developments must include security issues in their consideration of new developments
- Ensures that a third-party specialist routinely reviews network security
- Ensures that no external agency are given access to any of the Council's networks unless that body has been formally authorised to have access
All external agencies will be required to sign security and confidentiality agreements with the council.

System Owners

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

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

All Managers Must:

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

All Employees, Councillors, Voluntary Workers and Agency Staff must:

- Conduct their business in accordance with this policy
- Only access systems and information for which they are authorised
- Only use systems and information for the purposes authorised
- Comply with all applicable legislation and regulation
- Comply with controls communicated by the Information Asset Owner
- Not disclose confidential or sensitive information to anyone without the permission of the Information Asset Owner
- Ensure confidential or sensitive information is protected from view by unauthorised individuals
- Not copy, transmit or store information to devices or locations (physical or digital) where unauthorised individuals may gain access to it; the security of devices and locations you use are your responsibility
- Protect information from unauthorised access, disclosure, modification, destruction or interference
- Keep passwords secret and do not allow anyone else to use your access to systems and accounts

- Notify the Technology Services Manager of any actual or suspected breach of information security policy and assist with resolution
- Co-operate with compliance, monitoring, investigatory or audit activities in relation to information
- Take responsibility for familiarising themselves with this policy and understanding the obligations it places on them
- Reporting any breach, or suspected breach of information security without delay
- When disclosing personal or sensitive information to customers, particularly over the phone or in person, ensure that they verify their identity. Service areas dealing with customers on a daily basis should have suitable security questions which must always be used
- Always secure laptops and handheld equipment when leaving an office unattended and lock equipment away when you are leaving the office. Users of portable computing equipment are responsible for the security of the hardware and the information it holds at all times on or off Council property
- Physical security to all office areas is provided through the access control system. Staff should challenge strangers in the office areas without an ID badge. Never let someone you don't know or recognise to tailgate you through security doors
- Staff working from home must ensure appropriate security is in place to protect Council equipment or information. This will include physical security measures to prevent unauthorised entry to the home and ensuring Council equipment and information is kept out of sight. Council issued equipment must not be used by non-Council staff.

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

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

MONITORING

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

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

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

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

Also see

Acceptable Use Policy

Data Protection Policy

Contact

ICT@colchester.gov.uk

01206 507340



Data Protection Policy

November 2019



Customer Business Culture

Data Protection Policy

CONTEXT

Colchester Borough Council has to collect and use information about the people with whom it works; members of the public; current, past and prospective employees; customers; suppliers and others in order to carry out its duties.

Colchester Borough Council will ensure that it treats all personal information entrusted to it lawfully and correctly.

APPLICATION OF POLICY

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, Councillors, 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.

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.

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

This includes:

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

The 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.

THE PRINCIPLES OF DATA PROTECTION

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

- personal data is processed, lawfully, fairly and in a transparent manner
- the purposes for which personal data is obtained and processed are specified and that data is not used for any other purpose
- processing of personal data is adequate relevant and limited to what is necessary
- any data used or kept is accurate and up to date
- personal data is retained only for as long as necessary
- data is disposed of properly
- all personal data is processed in accordance with the rights of the individual concerned
- personal data is processed in an appropriate manner to maintain security
- the movement of personal data is done in a lawful way, both inside and outside the Council, and that suitable safeguards exist, at all times.

DEFINITION OF PERSONAL AND SENSITIVE DATA

The legislation makes a distinction between 'personal data' and 'personal sensitive data':

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

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.

ROLES AND RESPONSIBILITIES

Colchester Borough Council will ensure that:

- A member of staff, the Data Protection Officer (DPO), is appointed who has specific responsibility for data protection within the Council
- Any disclosure of personal data is in compliance with the law and with approved procedures
- Anyone managing and handling personal information understands that they are legally bound to follow good data protection practice
- Anyone managing and handling personal information is appropriately trained and supervised
- Staff have access only to personal information relevant to their roles
- Appropriate advice and guidance is available to anyone wanting to make enquiries about personal information held by the Council
- Enquiries and requests regarding personal information are handled courteously and within the time limits set out in law
- All 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.

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
- No personal data is disclosed either verbally or in writing, accidentally or otherwise, to any unauthorised third party
- Personal data is not stored on personal devices or forwarded to personal email accounts
- Personal data is not be left where it can be accessed by persons not authorised to see it
- Personal data is kept up to date and accurate
- Personal data is kept in accordance with the Council's retention schedule
- Any data protection breaches are swiftly brought to the attention of the Data Protection Officer and that they support the Data Protection Officer assistance in resolving breaches
- Where there is uncertainty around a data protection matter advice is sought from the Data Protection Officer.

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 Data Protection Act 2018 (DPA 2018) or the General Data Protection Regulations (GDPR) will be deemed as being a breach of any contract between the Council and that individual, company, partner or firm.

The Council's Data Protection Officer is responsible for:

- 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.

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

- Being the organisations leader and Champion for Information Risk Management and Assurance
- Advocating good information management and security practices
- Acting in an arbitrary role – to challenge risk mitigation
- Ensuring others are undertaking risk assessments and assurance activities
- Reporting annually to the Accountable Officer
- Is the senior manager with accountability for data protection and information risk and provides a link to the Council's senior management team (SMT).

COUNCILLORS

An officer has also been designated in each service as responsible for ensuring that this Policy is adhered to.

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

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>

Councillors must be registered with the Information Commissioner as data controllers.

THE INFORMATION COMMISSIONER

Colchester Borough Council is registered with The Information Commissioner as a data controller.

The DPA 2018 requires every data controller who is processing personal data to notify and renew their notification on an annual basis. Failure to do so is a criminal offence.

Designated officers will be responsible for notifying and updating the Data Protection Officer with regard to the processing of personal data within their department.

The Data Protection Officer will review the Information Asset Register with designated officers annually.

FURTHER INFORMATION

Contact

ICT

ICT@colchester.gov.uk

DPO

DPO@colchester.gov.uk

01206 507340

In the event of an information breach, or suspected breach, contact the ICT team and Data Protection Officer.



Acceptable Use Policy

November 2019



Customer Business Culture

Acceptable Use Policy

CONTEXT

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

APPLICATION OF POLICY

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

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

This policy will be reviewed annually.

ACCESS TO IT SYSTEMS

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

PASSWORDS

- You must not use someone else's username and password to access any IT systems.
- You must not leave your password unprotected (for example writing it down or sharing it with another person).
- Passwords must meet complexity requirements:
 - Passwords must contain characters from three of the following categories:
 - Upper case letters of European languages (A through Z, with diacritic marks, Greek and Cyrillic characters)
 - Lower case letters of European languages (a through z, sharp-s, with diacritic marks, Greek and Cyrillic characters)
 - A number from 0 to 9
 - Non-alphanumeric characters (special characters): (~!@#\$%^&* -+=\|{}[];:'"<>.,?/). Currency symbols such as the Euro or British Pound are not counted as special characters for this policy setting.
 - Any Unicode character that is categorized as an alphabetic character but is not upper case or lower case. This includes Unicode characters from Asian languages.
 - Passwords may not contain the user's samAccountName (Account Name) value or entire displayName (Full Name value).
 - Passwords must be changed every 45 days
 - All CBC devices must be password protected.

BEHAVIOUR

- You must not participate in unlawful, libellous, immoral or offensive activities, including accessing, downloading, storing, creating, copying or disseminating offensive material. This includes, but is not limited to, material of a pornographic, sexual, violent, criminal, racist, sexist or otherwise discriminatory nature. Further, you must not use the systems to perpetrate any form of fraud or piracy.
- You must not publish a website, or any content on a website, that could bring the organisation into disrepute. This includes publishing defamatory or knowingly false material about the organisation, colleagues or customers in any online publishing format.
- Only subscribe to services with your professional email address when representing the organisation.
- CBC facilities and identity must not be used for commercial purposes outside the authority or remit of the Council, or for personal financial gain.
- You must not use the internet or email to make personal gains or conduct a personal business.
- You must not use the internet or email to gamble.
- You must not bring the Council into disrepute through use of online, 'social networking' activities.
- Report faults with information and communications technology and co-operate with fault diagnosis and resolution.

- If you use our technology or our internet provision for personal use, the Council takes no responsibility for the security of your personal information. It is recommended you do not carry out personal financial transactions.

DEVICES

- You must not connect any non-authorised device to the network or IT systems.
- You must not store data on any non-authorised equipment.

STORAGE

- You must not give or transfer data or software to any person or organisation, without following the Security Policy.
- Documents must not be stored locally (for example on c drive) on a desktop computer or laptop, as they are not backed up and information may be irretrievable if the device fails or is stolen. This includes synchronising SharePoint and OneDrive to a local device without ICT authorisation.
- The use of mobile devices such as memory sticks, CDs, DVDs and removable hard drives must be authorised by the Strategic ICT Manager. Personal data must not be stored on mobile devices.

SECURITY AND LICENCING

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

WORKING REMOTELY

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

USE OF SHAREPOINT

- You must not purposely engage in activity that may deprive an authorized user access to a SharePoint resource.
- You must not attempt to access content for which you do not have permission.
- You must not circumvent SharePoint security measures. Corporate data/information must only be stored on team sites (not Office 365 groups).
- All staff must maintain the supported infrastructure setup by filing the documents via Adding Properties and not creating folders within folders.

- Site owners are responsible for managing the use of SharePoint in their area and are accountable for their actions.
- Site owners are responsible for the custody or operation of their SharePoint sites and are responsible for proper authorisation of user access.
- Data used in SharePoint must be kept confidential and secure by the user.
- You must ensure that permissions to document libraries are appropriately set and maintained to ensure the security of information.
- You must ensure that private or personal documents are secured (through the use of the 'only me' function) to ensure the security of information.
- Data can be shared with external people/organisations using the 'External sharing' SharePoint site. All documents shared must be removed once the need to share has expired. Any sensitive data shared in this way must be done with the appropriate set up of SharePoint permissions to ensure the security of that data.

USE OF ONEDRIVE

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

MOBILE PHONES

- Requests for a mobile phone will be subject to a valid business case being made and management authorisation.
- In order to prevent unauthorised access, devices must be password protected using the features of the device and a strong password is required to access the network.
- The primary reason for being given a work mobile phone is for business purposes. Using the phone for personal calls should not interfere with daily business and wherever possible be made outside of working hours.
- Employees are expected to use the internet responsibly and productively. Excessive personal internet browsing, including social media use, is not permitted.
- Calls to premium rate numbers and overseas are not permitted, unless there is a real business need and authorisation has been provided by the relevant Assistant Director.
- You must not use Colchester Borough Council mobile devices for conducting private business.
- Mobile devices may not be used at any time to, store or transmit illicit materials or harass others.
- When driving, staff are expected to comply with the Council's Vehicle User Handbook and the Road Vehicles (Construction and Use) (Amendment) (No4) Regulations 2003, which prohibit the use of handheld mobile devices at all times when driving.
- If your device use is deemed unacceptable, we may cancel your plan and ask for the return of the device.

WHEN AN EMPLOYEE LEAVES

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

MONITORING

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

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

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

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

Also see

Information Security Policy

Data Protection Policy

Contact

ICT

ICT@colchester.gov.uk

01206 507340



Data Retention Policy

November 2019



Customer Business Culture

Retention Policy

CONTEXT

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

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

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

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

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

APPLICATION OF POLICY

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

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

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

RELEVANT PRINCIPLES OF DATA PROTECTION

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

- Personal data is retained only for as long as necessary
- Data is disposed of properly
- All personal data is processed in accordance with the rights of the individual concerned
- Security is maintained at all times;
- 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.

DEFINING RETENTION PERIODS

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

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

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

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

ROLES AND RESPONSIBILITIES

Colchester Borough Council will ensure that:

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

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
- All personal data is kept in accordance with the Council's retention schedule
- Where there is uncertainty around a retention matter ensure that advice is sought from the Data Protection Officer
- The retention Schedule reflects current legislative requirements for document and records in their care
- The Retention of documents and records is fully defined
- Records are accessible and are made available when necessary so that information requests can be responded to promptly
- Records and documents are destroyed or deleted at the end of the retention period in a secure way
- Records are held in accordance with the Data Protection and Freedom of Information Acts and any other relevant provisions.

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

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

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

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

FURTHER INFORMATION

Contact

DPO

DPO@colchester.gov.uk

01206 507340

In the event of an information breach, or suspected breach, contact the ICT team and Data Protection Officer.



Income & Debt Management Policy

Customer Solutions

November 2019

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1. Introduction

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

2 Policy Aims

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

3. Billing and Invoicing Arrangements

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

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

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

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

4. Methods of payment

- 4.1 The Council will streamline the number of available payment methods whilst improving self-serve options with the aim of reducing processing costs and onerous administration for outdated methods.
- 4.2 The Council's preferred methods of payments are:
 - Direct debit
 - BACS
 - Online payments
 - Automated telephone line payments
- 4.3 Services should remove any payment options from promotional materials, bills or other correspondence other than the preferred payment methods. For recurring or regular charges Direct Debit must be promoted as the payment option. For one off charges an upfront debit card internet payment should be promoted followed by other self-serve options.
- 4.4 Payment options that create an administrative burden will be phased out. This will include payments by Cheque, Payment Card or Postal Order.

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

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

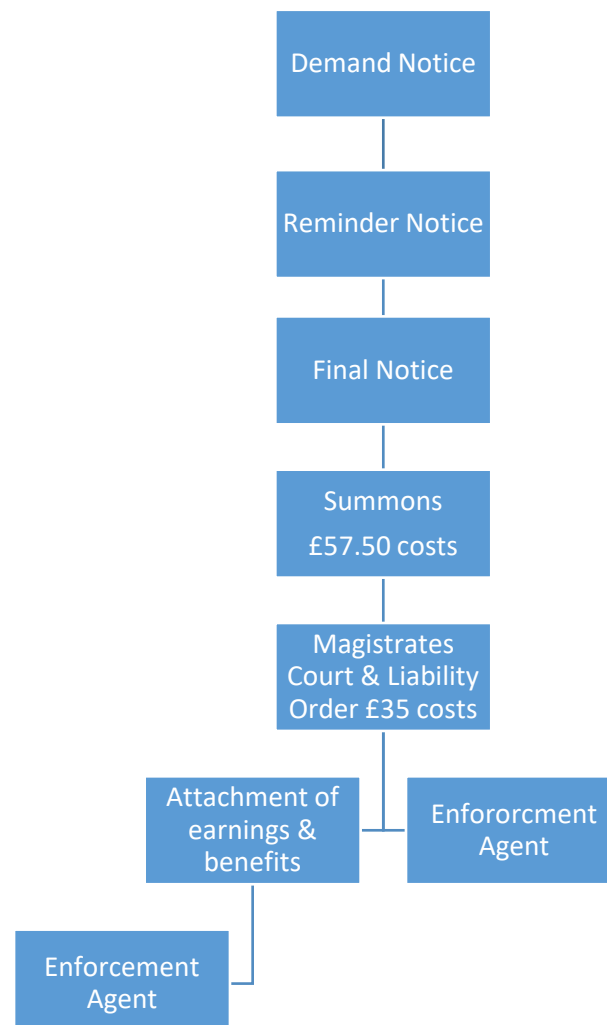
4.6 It is acknowledged that there may be exceptional circumstances where payments would be received in a method that is not preferred for example if a customer is very vulnerable or if they were in a formal enforcement process.

5. Recovery of unpaid debts

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

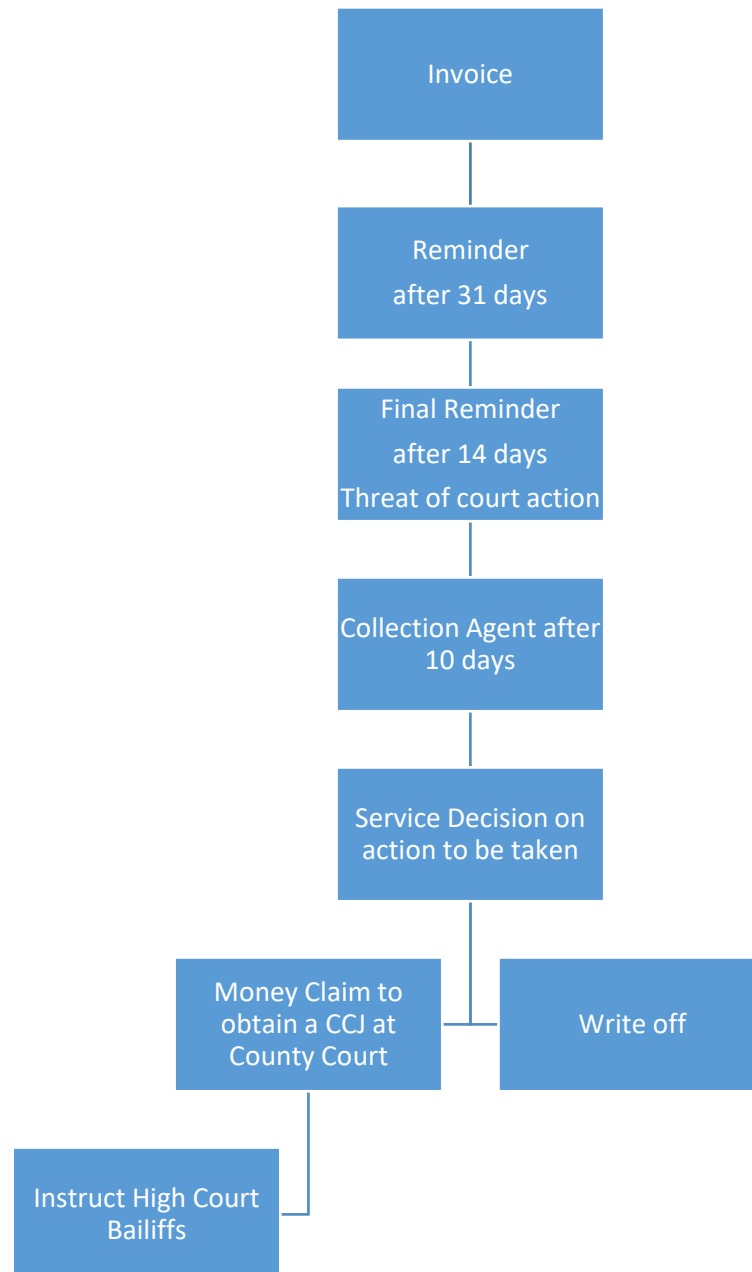
5.2 Reminders will use nudge and persuasive techniques that are most likely to attract prompt payment.

6.1 Council Tax and Business Rates Process



7. Sundry Debt Processes

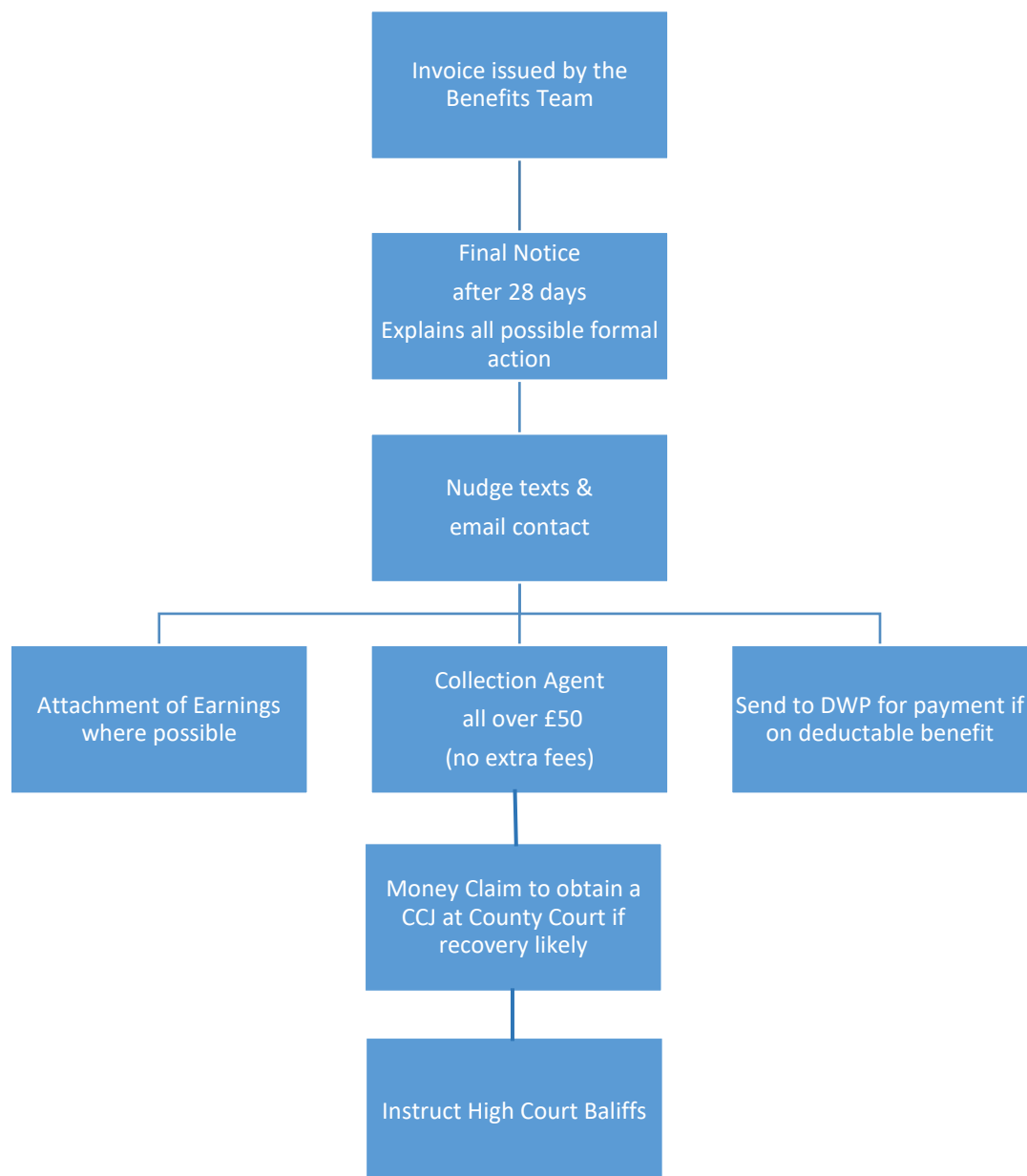
- 7.1 In the cases of sundry debts it is the service or relevant manager who should decide whether enforcement action should be taken. The income team will inform services of any debts owing to them and they should respond to say whether each case should then be enforced.



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

8. Housing Benefit Overpayment

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



9. Enforcement

- 9.1 The Council will use all means at its disposal to ensure that any debts owed are recovered following any relevant statutory or civil process to enforce payment.
- 9.2 When initiating recovery action the officer must also consider whether the debtor is vulnerable and how any action would impact on them.
- 9.3 The following enforcement options will be considered by Council Officers (as well as other options specific to an individual case):

10. Enforcement Agents (previously bailiffs)

- 10.1 All Enforcement Agents are regulated and have to act in prescribed ways to our customers. They are all fully trained on how to identify vulnerable customers and wear body cameras so all customer contacts are recorded and can be viewed back if required.
- 10.2 There is a clearly defined stage process and Enforcement Agents can only charge fees for each stage when certain trigger actions have been completed.
- Stage 1- Compliance stage £75.00
 - Stage 2 – Enforcement Stage £235.00 + 7.5% on the original debt over £1,500
 - Stage 3 – Sale Stage £110.00 + 7.5% on the original debt over £1,500

11. Attachment of Earnings, Fees or Benefits

- 11.1 Used where the debtor is employed or in receipt of other regular income where payments can be taken directly from this income. Deductions are made at a rate determined by legislation.

12. Bankruptcy Proceedings/Liquidation

- 12.1 Used when the debtor is a property owner and it is thought that there will be sufficient equity within the property to support full or partial repayment of the debt.
- 12.2 Cases considered suitable for bankruptcy are selected from cases that have been returned from the bailiff, either unable to gain entry or unable to access or returned no goods.
- 12.3 The following factors must be considered:
- The level of equity available in the liable property and any other associated properties where the debtor has a financial interest must cover the outstanding debt and associated costs
 - Whether the property is up for sale and therefore a charging order would be more appropriate

13. Charging Orders on Property

- 10.1 Used where the debtor owns a property, the Council is able to recover debt when the property is sold in the future. The Council may consider this action where the debtor is on a low income and or is classed as vulnerable or elderly.

11. Committal Proceedings

- 11.1 The law allows Councils to apply to the Magistrates Court to have a person sent to prison where there is culpable neglect or wilful refusal to pay debt.
- 11.2 This will be used when bankruptcy or charging orders are not appropriate. It is not generally accepted by the local magistrates' court as appropriate action, but can be used when other remedies have been exhausted.

12. Money Claim

- 12.1 This is an efficient and inexpensive way for the Council to commence the County Court Judgement (CCJ) process via the County Court. Customers are contacted in regard to any debt by The County Court and given the option to pay in full, set up an arrangement for payment or dispute the debt.
- 12.2 If the judgement is for more than £600 the Council may be able to ask a High Court Enforcement Officer to try to collect the money or remove goods to sell at auction. A warrant is required for this action.

13. Vulnerable customers and those who are in financial difficulty

- 13.2 The Council is committed to support and assist our vulnerable customers. The Income and Corporate Debt Team work closely with the Customer Support Team and external partners to offer the best solution and advice possible for the vulnerable customer and the Council.
- 13.3 Extenuating circumstances will be taken into account when considering recovery action in order to protect the vulnerable and avoid transference of a problem elsewhere.

Considerations may include:

- Whether there are very young or elderly people in the household
- Chronic or terminal illness
- Recent bereavement of spouse or member of household
- Potential homelessness
- The ability of the individual or household to make a payment
- Is an Exceptional Hardship Payment (EHP) or Discretionary Housing Payment (DHP) appropriate

For business debts considerations may include:

- Potential loss of employment for employees of the business
- Loss of key facilities for the local community
- A payment option is the only choice because the business has no assets

- Consideration to any relief that may be appropriate.
- 13.4 Where it has been identified that a customer is suffering from financial difficulties or other extenuating circumstances the Council is committed to providing advice and support as well as a variety of payment options including:
- Holding enforcement action once a customer makes contact to inform of a difficulty in making payment
 - Voluntary payment solutions considered in preference to statutory or civil remedies as a first stage
 - Past history of payments should be considered when making a decision to proceed with enforcement action
 - Where a payment solution is agreed this should be confirmed in writing by the Council including any action that will be taken should the agreed payments not be made
 - Payment solutions should be made with an agreed up-front payment from the debtor whenever possible
 - Where a payment solution cannot be agreed, the debtor will be advised of the reasons why and that the recovery process will continue should an alternative arrangement not be made

14. Tracing and Searches

- 14.1 As part of the recovery process as number of traces and searches can be carried out to try and establish further information on a debtor. This is particularly useful when we have no forwarding address for someone who has moved home before settling a debt.
- 14.2 Locating Council Tax Absconders (LOCTA) is a local government tracing tool that provides a suite of information including, forwarding address, DWP information, credit reports and telephone numbers,
- 14.3 If a LOCTA search is unsuccessful the Council may use a Credit Referencing Agency to trace an individual. The Data Protection Act section 29 allows Local Authorities to credit check and search individuals in regard to the collection of Tax.
- 14.5 The use of internet searches and Social Media to access information in the public domain is also very useful, particularly in establishing employment details for attachment of earnings.
- 14.6 We can also use a Customer Information System (CIS) check that allows certain authorised officers to search DWP database. This information can only be used for the recovery of Housing Benefit Overpayments.
- 14.7 If necessary the Council may ask a Revenues Inspector to carry out a visit to establish the status of a property.

15. Bad debts

15.1 For the purpose of this policy a bad debt is classified as:

- Money due when there is little or no likelihood of recovery after all methods have been exhausted
- Money due where it is uneconomical or inefficient to recover the sum due
- Money due but the debt is too old (aged) to continue recovery
- Money due where the Council does not wish to pursue recovery because the circumstances of a case would attract well-founded adverse publicity or public reaction, or the concept of natural justice would be compromised

15.2 Where it is considered that a debt is a bad debt the Council will ensure that it is written off promptly to preserve and maintain the principle of accurate and up to date information. Decisions will be made based on the circumstances that exist at the time and any unusual circumstances should be referred to the Head of Service or Portfolio Holder.

<i>Debt Value</i>	<i>Process</i>	<i>Authorised Person</i>
Up to £25	Write off on the system with screen notes using write off code	Corporate Debt/Revenues Officer
£25 to £100	As above. Income and Corporate Debt Manager to carry out spot checks and record for audit purposes.	Corporate Debt/Revenues Officer Corporate Debt Manager
£100 - £5,000	Detailed system checks/searches carried out. If unsuccessful and investigation form is complete and signed. Investigation forms scanned and front schedule to be signed.	Corporate Debt Manager S151 Officer
Over £5,000	A Portfolio Holder report must be complete with details of individual write-offs	Portfolio Holder

15.3 The cumulative total of debts written off will be monitored by the Income and Corporate Debt Manager to ensure that the incidence of bad debt remains consistent with the Councils estimates and projections.

16. Complaints and errors

16.1 If an error or mistake is made in the process of recovering debt the account will reviewed and appropriate action taken.

- 16.2 If a customer is unhappy with the service provided or disagrees with the decisions made they are able to complain through the Councils standard complaints procedure. Details of this can be found on the Council website - <http://www.colchester.gov.uk/complaints>.
- 16.3 During the process of enforcing payment of outstanding debts it is possible that evidence or facts emerge after enforcement proceedings have been taken or have been completed.
- 16.4 In these cases the Council will take appropriate action to remedy the situation as far as possible:
- Proceedings will be stopped immediately
 - The debtors account will be noted to reflect the revised situation
 - Where appropriate the Court involved will be advised
- 16.5 Although the Council will make every effort to resolve a misrepresentation of the true situation, some issues can only be resolved by reference to the Courts.

Appendix 1

Standard Enforcement Actions for Mortgages and Shared Ownership Scheme

Individual accounts are monitored on a regular basis to ensure that regular monthly payments are received, and reminders sent. Where all or part of the debt is paid by the Pensions Service or the Benefits Division, the receipt of these sums will also be monitored. Whilst standard reminders are available, a more personal approach will often be required.

If the debtor fails to maintain regular payments the Corporate Debt Team will attempt to discuss options. Should this not prove possible, or if arrangements are not adhered to, then the following action will be taken:

Mortgages

Legal Services will be approached and given sufficient information to allow for the preparation of a possession order to be requested from the District Judge. Whilst Court papers are being prepared, Legal Services will warn the debtor of the implications of non-payment.

If a possession order is obtained, the Income Management Team will monitor the arrangement made. Should payment cease, a Portfolio Holder decision will be required if it becomes necessary to implement the order.

Shared ownership cases

Where a mortgage is held on the property, then the lender will be advised that rent is not being paid and that forfeiture proceedings are being considered. If the lender will not make payment on behalf of the borrower, or if there is no lender, the Council will decide whether to pursue forfeiture or to attempt to obtain a money judgment for the County Court.

Appendix 2

Standard Enforcement Actions for Penalty Charge Notices (North Essex Parking Partnership)

This debt is collected directly by the North Essex Parking Partnership and not Customer Services.

Parking enforcement is carried out in accordance with the provisions and procedures laid out in the Road Traffic Management Act 2004. A parking penalty is not a debt until the motorist has exhausted all avenues of appeal.

- 1. Penalty Charge Notice** issued.
- 2. DVLA enquiry** made if no correspondence received or payment received within 31 days.
- 3. Notice to Owner** sent if full payment is not received within 31 days of issue.
- 4. Charge Certificate** sent and charge increased by 50% of full payment, or representation against Notice to Owner, if not received within 31 days.
- 5. Debt registered at County Court** and fees added if full payment is not received within 17 days of Charge Certificate being sent.
- 6. Notice of Debt Registration** sent.
- 7. Apply for a Warrant of Execution and instruct Enforcement Agents (bailiffs)** if full payment or Witness Statement is not received within 21 days of Notice of Debt Registration being sent. A Warrant of Execution has a lifespan of 12 months only and cannot be reissued thereafter. If the Council has been unsuccessful in recovering the penalty charge by means of a Warrant within 12 months and wishes to pursue, the Council must ask the Traffic Enforcement Centre (Northampton County Court) for authorisation to prepare another Warrant. Warrants that have been returned from the Bailiff after a period of 6 months because the debtor could not be traced or there are no funds or goods to seize can be sent to other Bailiff companies for collection.
- 8.** If warrants remain unpaid, the council is now able to recover debt using a different process where a valid warrant is not required.

26 November 2019

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Annual review of the Members' Code of Conduct and the Council's Localism Act Arrangements		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This report requests the Committee to review the Councillors' (Members') Code of Conduct, the Council's Localism Act Arrangements for dealing with complaints made regarding councillors and to make recommendations to Full Council regarding any amendments.
- 1.2 The report also provides an update on the number and types of complaints received under the Members' Code of Conduct.

2. Recommended Decisions

- 2.1 To note the contents of this report.
- 2.2 To keep the Members' Code of Conduct and the Council's "Arrangements" under annual review.
- 2.3 To agree to make recommendations to Full Council regarding any amendments to the Members' Code of Conduct and the Council's "Arrangements" in the light of experience.

3. Background

- 3.1 The Localism Act 2011 ("the Act") introduced the current system of regulation of standards of conduct for elected and co-opted Members. These arrangements came into effect on 1st July 2012. The Act requires local authorities to adopt a code of conduct consistent with the [seven Nolan Principles of public life](#) and that Principal Authorities put in place "Arrangements" to deal with allegations that Councillors had failed to comply with the Members' Code of Conduct. Principal Authorities are also required to appoint at least one "Independent Person" who are to be consulted as part of the Council's "Arrangements".
- 3.2 The Full Council at its meeting on 25 June 2012 formally adopted the Borough Council's Members' Code of Conduct and its "Arrangements" which are attached to this report at Appendix 1 and Appendix 2 respectively. As part of its "Arrangements", the Full Council at its meeting on 24 May 2017 re-appointed Barbara Pears and Sarah Greateorex as the Council's Independent Persons for a further term of four years.
- 3.3 The Act also introduced the current interest's regime which included a new register of Members' interests. The Government published amended guidance in September 2013 for councillors on interests ("Openness and transparency on personal interests – a guide for councillors") which has been circulated to all Borough Councillors and to every Town and Parish Council within the Borough.

- 3.4 The Act places on the Borough Council a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members. The Full Council has in turn delegated this function to this Committee as part of its terms of reference.
- 3.5 The Committee at its meeting on 30 October 2018 last reviewed the Council's Localism Act processes and this report seeks to review our subsequent experience to date.

4. Review of the Code

- 4.1 The Act did not prescribe the contents of the Code (save to be consistent with the seven Nolan principles) and accordingly the version of the Members' Code of Conduct adopted by the Full Council was a version promoted by the Public Law Partnership. This was to ensure a consistent approach across the County and to ensure that all council's (County, districts and parishes) adopted the same version of the Code to provide a sense of clarity for Councillors.
- 4.2 The Borough Council's Code was adopted by the Town and Parish Council's in the Borough. The Borough Council's Code has been operating successfully in the past year without any apparent difficulties or concerns and I would propose that the Committee continues to keep the Code under annual review and makes recommendations to Full Council regarding any subsequent amendments in the light of experience.
- 4.3 The Act requires the Monitoring Officer to compile and publish on the Borough Council's website a Register of Members' Interests. This includes Disclosable Pecuniary Interests for both Councillors and their partners and pecuniary and non-pecuniary interests just for Councillors. All the Borough Councillors interests are published and most of those of the Town and Parish Councillors in the Borough have also been published on the Borough Council's website. However, the Act did not make it a statutory requirement for all existing Councillors to register their declarable interests. The Act does however make it an offence for a councillor to fail to register their declarable interests within a period of 28 days of becoming elected. However, the Government stated in its guidance: -

"All sitting councillors need to register their declarable interest. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty (i.e. Nolan Principles), with which you must comply"

This has been specifically been drawn to the attention of all Town and Parish Councils.

- 4.4 The Borough Council's Committee Management Information System (CMIS) enables the Register of Members' Interests to be published in line with the Government's transparency agenda so that all Councillors' information is in one place on the website.
- 4.5 Training on the Code on Conduct is offered regularly by the Monitoring Officer for Borough Councillors and also provided refresher training for some Parish Councils earlier in the year.

5. Review of the Arrangements and the Code of Conduct

- 5.1 The Act required the Council to adopt "Arrangements" for dealing with allegations that Councillors have potentially failed to comply with the Code. Any allegations that Councillors have not complied with the Disclosable Pecuniary Interests regime under the Act are not dealt with under the Council's "Arrangements" as they are potentially criminal offences and need to be dealt with by the Police. As at the date of this report there have been no such allegations or referrals.

- 5.2 The Council's "Arrangements" are made publically available on the Borough Council's website and have been used on several occasions in relation to both Borough and Parish councillors. All allegations are received by the Monitoring Officer who makes an initial assessment of the merits of the complaint in consultation with an Independent Person in accordance with the "Arrangements".
- 5.3 The table at Appendix 1 below details the number, type and outcome of allegations received since 1 July 2012. The table indicates a decrease in the numbers in the past year. This cannot be attributed to a particular reason. The Localism Act states that the Code of Conduct only applies when a Councillor is acting in their official capacity as a councillor. This has been upheld by subsequent case law which has confirmed the position. Accordingly, the Code can only be used to regulate councillors' conduct when they are acting in that capacity.
- 5.4 In previous years several complaints had been received regarding comments made on social media. The Committee supported the provision of training for councillors regarding the use of social media. In addition, the Member Development Group highlighted social media as an area where training should be provided for councillors. Last year sessions were run for councillors facilitated by an external trainer which were well attended. Even though the numbers of complaints have reduced it is suggested that refresher sessions are scheduled in due course.
- 5.5 Overall the Council's Localism Act "Arrangements" appear to be operating satisfactorily and I would propose that the Committee continues to keep them under annual review and to make any appropriate recommendations to Full Council on any subsequent amendments to the "Arrangements" in the light of experience. The Council's Code of Conduct is compliant with the law, however the Committee may wish to review its wording.

6. Strategic Plan References

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

7. Publicity Considerations

- 7.1 The Council's Code of Conduct and "Arrangements" are available on the Council's website www.colchester.gov.uk/standards

8. Financial, Equality, Diversity and Human Rights, Consultation, Health, Wellbeing and Community Safety, Health and Safety and Risk Management Implications

- 8.1 None.

Councillor Code of Conduct Allegations received since 1 July 2012

Allegations	Jul12 – Mar13	Apr 13 – Mar 14	Apr 14 – Oct 14	Nov 14- Oct 15	Nov 15 – Oct 16	Nov 16 – Oct 17	Nov 17 – Oct 18	Nov 18 – Oct 19	Total
Number received	2	3	2	3	3**	13***	22****	3	51
Borough Councillor	1	3*	2	1	2	12	•13	3	37
Parish Councillor	1	1	0	2	0	1	••9	0	14

NB. *one complaint was made against two councillors

** two complaints were made against one councillor

*** two persons made the same complaint against one councillor

**** two persons made same complaint against one councillor – one person made the same complaint against five councillors

• one person made the same complaint against three councillors - two persons made the same complaint against one councillor.

••one person made the same complaint against three councillors

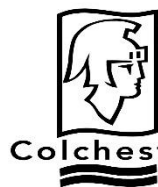
The majority of allegations came under the heading of “treating others with respect” with one being under the heading of “not to do anything which may cause the Authority to breach any of the equality enactments”.

Source of complaints	Jul12 – Mar13	Apr 13 – Mar 14	Apr 14 – Oct 14	Nov 14- Oct 15	Nov 15 – Oct 16	Nov 16 – Oct 17	Nov 17 – Oct 18	Nov 18 – Oct 19	Total
Member of the public	2	6	2	2	1	9	14	3	39
Borough Councillor	0	0	0	1	1	1	1	0	4
Parish Councillor	0	0	0	0	0	2	2	0	4
County Councillor	0	0	0	0	0	0	0	0	0
Member of Parliament	0	1	0	0	0	0	0	0	1

	Jul12 – Mar13	Apr 13 – Mar 14	Apr 14 – Oct 14	Nov 14- Oct 15	Nov 15 – Oct 16	Nov 16 – Oct 17	Nov 17 – Oct 18	Nov 18 – Oct 19	Total
Referrals to Governance and Audit Committee	0	0	0	1	1	1	0	0	3

Outcome	Jul12 – Mar13	Apr 13 – Mar 14	Apr 14 – Oct 14	Nov 14- Oct 15	Nov 15 – Oct 16	Nov 16 – Oct 17	Nov 17 – Oct 18	Nov 18 – Oct 19	Total
Not within remit of Code of Conduct	0	0	0	1	0	5	0	1	7
Merits no further investigation	2	3	2	2	3	8	14	2	36
Merits further investigation	0	0	0	0	0	0	1	0	1

NB. The complaint which merited further investigation was closed due to the complainant not co-operating with the investigation.



Governance and Audit Committee

Item

9

Colchester 26 November 2019

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 2019/20. 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 2019/20.
- 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 2019/20. This sets out the six principles and elaborates on how the Council is meeting them, what source documents or processes evidence this and in addition highlights any further or ongoing work. This in turn links into the Council's Annual Governance Statement.
- 3.8 The Local Code has been updated to reflect the implementation of the Service Futures programme, the Councils' commercial company structure, Member training, reference to new strategic priorities and to the Climate Emergency. Otherwise there have been no significant changes to the Local Code following the review, and it is considered still fit for purpose.

4. Strategic Plan References

- 4.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan 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 2019/20

A guide to the Council's compliance with the six principles of Corporate Governance.

November 2019

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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) and action plan.</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.</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>The Constitution and its committees and panels.</p>	<p>Development and monitoring of actions to support delivery of the Strategic Plan 2018-21, including spending priorities.</p> <p>Implementing the 'Service Futures' programme which took 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>Core values of 'customer, business and culture' with identified attitudes and behaviours</p> <p>Key Performance Indicators (KPIs) reported and published to show achievements against targets</p> <p>The Council's strategies and policies.</p> <p>Awards and accreditations.</p> <p>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 – continuing its development 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.</p> <p>The Constitution and its committees and panels.</p> <p>Medium Term Financial Strategy and Capital Programme.</p> <p>Local Code of Corporate Governance.</p> <p>Annual Governance Statement and Assurance Framework.</p> <p>Risk Register.</p>	<p>Development and monitoring of actions to support delivery of the Strategic Plan 2018-21.</p> <p>Strategic Plan 2018-21 Spending Priorities.</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	Colchester Ambassadors – key borough businesses and their promotional work. Community Hub at Colchester library brings a range of partners together to provide customer-facing services. Also the Essex County Council Relationship Manager role.
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	Crime and Disorder Committee examines the work of the Safer Colchester Partnership. 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	Improvement and Engagement Team review customer demand and feedback, statistics and research to encourage services to make informed choices based

	<p>Consultation – “Consultations, Research and Statistics” section on website</p> <p>Mosaic and other customer research tools</p> <p>Annual Monitoring Report</p> <p>External Audit annual audit letter and recommendations</p> <p>Local Government and Social Care Ombudsman – Annual Review Letter</p> <p>Review of Complaints Procedure (to Committee October 2018)</p>	<p>on fact, and support process improvement work council-wide.</p> <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>
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In order to achieve our aims we have/will:	Source documents/processes	Further work ongoing
1.2.2 Put in place effective arrangements to identify and deal with failure in service delivery	Performance reporting and performance indicators Complaints Procedure Internal Audit Process and annual work programme Chief Operating Officer Performance Management Board External Auditor's annual audit letter and recommendations The Constitution, its committees and panels Risk Management Strategy Ethical Governance Policies Annual Governance Statement Action Plan Review of Complaints Procedure	Performance Management Board addresses and manages performance and financial issues and meets monthly. Preparation for Budget Group is also managed here. <u>'Help us get it right'</u> options for customers
1.3.1 Decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions.	Performance Reporting Performance Management Board Environmental Sustainability Strategy/Actions External Auditor's annual audit letter and recommendations Statement of Accounts Annual Treasury Strategy Statement 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 – CCH/Amphora trading companies. The Council has declared a Climate Emergency and has established a Conservation and Environmental Sustainability Task and Finish Group. This is developing an Action Plan for the Council to be carbon neutral by 2020.

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
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. Cabinet identifying and resourcing new strategic priorities.
2.3.5 When working in partnership ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the authority	Constitution Individual Partnership Agreements Service Level Agreements Advice given to Members in relation to outside bodies Partnership Strategy	Community Hub at Colchester library brings a range of partners together to provide customer-facing services. 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 relaunched 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 Review of Complaints Procedure	Embedding the Council's core values of 'customer, business and culture' with identified attitudes and behaviours. The Job Accountability Statement/Person Specification template highlights the core values to applicants, and the 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.

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 (existing) and development of 2020 update Embedding the Council's core values of 'customer, business and culture' with identified attitudes and behaviours
3.2.2 Put in place arrangements to ensure that procedures and operations are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice	Contract Procedure Rules Ethical Governance Policies Member and Officer Codes of Conduct Monitoring of the above takes place by the Governance and Audit Committee ICT Security Policy Annual reporting to Governance and Audit Committee	

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
3.2.3 Develop and maintain an effective Standards Committee	Member conduct issues (standards) within remit of Governance and Audit Committee Agenda and Minutes Terms of Reference Regular meetings Member training on Code of Conduct Work programme	Annual review of the Localism Act arrangements by the Governance and Audit Committee.
3.2.4 Use the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority	Member and Officer Codes of Conduct Strategic Plan, objectives and priorities in place and being shared Performance Appraisals Portfolio Holder briefing with Senior Managers Policy Framework	Embedding the Council's core values of 'customer, business and culture' with identified attitudes and behaviours
3.2.5 In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively	Values agreed with each partner Partnership Strategy	Annual report to Cabinet on Members' appointments to outside bodies, including feedback on outcomes, issues and engagement Scrutiny Panel work programme includes review of partnership arrangements, with presentations from partners at Scrutiny

PRINCIPLE FOUR

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 and members Scrutiny of partners and joint projects	Scrutiny Panel work programme includes review of partnership arrangements, with presentations from partners at Scrutiny Specialised training provided to Scrutiny members on the scrutiny of commercial companies and treasury management
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 (responsibility) and Monitoring Officer (reports) Politically restricted posts Ethical Governance Policies, and annual review Secondary Employment Policy	
4.1.4 Develop and maintain an effective Audit Committee (or equivalent) which is independent or make other appropriate arrangements for the discharge of the functions of such a committee	Audit issues within remit of Governance and Audit Committee Member Development Programme Agenda and Minutes The Constitution	Continue to review Member training programme with specific reference to audit and governance
4.1.5 Put in place effective transparent and accessible arrangements for dealing with complaints	Complaints procedure "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	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	Datashare Projects carried out by the Council's Customer Improvement and Engagement Team Customer insight work

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
	Clear and well understood decision making processes with published timelines Publication Scheme and Transparency Code	

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	
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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. Specialised training provided to Scrutiny members on the scrutiny of commercial companies and treasury management
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	Member skills development Talent Management/Career Track for staff Learning and Development – commercial and Office365 skills Specialised training provided to Scrutiny members on the scrutiny of commercial companies and treasury management

	Charter Status for Elected Member Development renewed July 2018	
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 Audio streaming of Council meetings	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.

<p>5.3.2 Ensure that career structures are in place for Members and Officers to encourage participation and development</p>	<p>People Strategy Internal Recruitment Process Internal Secondments Personal Development Plans for officers Personal Development Plans for members Talent Management/Career Track for staff Member skills development Staff structure charts</p>	<p>Talent Management/Career Track - the SMT Talent Panel considers critical roles; moderate career track paths; confirm Future Leader or Future Potential assessments; and then consider those on the Future Leader career track and manage their development</p> <p>Future Leader Programme</p> <p>Staff Recognition Scheme</p> <p>Opportunities such as the District Council Staff Development Programme and the Local Authority Challenge as they arise</p>
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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	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 Locality Budgets for councillors have been brought in with clearer guidelines and all spend/activity transparently available on the Council's website.

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 Audio streaming of Council meetings	
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	Holding public consultations on key issues to encourage different sections with differing views to take part

	Budget Consultation Meeting	
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 Audio Streaming of Council meetings</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 – reaccruited for three years to 2021.</p>

26 November 2019

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Gifts and Hospitality – Review of Guidance for Councillors and Policy for Employees		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 The Council provides guidance for councillors regarding any gifts and hospitality received in their role as a councillor. The Council has also adopted a policy for its employees in relation to any gifts and hospitality received. This report requests the Committee to approve updated guidance for councillors and policy for employees.

2. Recommended Decision

- 2.1 To approve the attached Guidance for Councillors regarding Gifts and Hospitality and that it be included in the Constitution.
- 2.2 To approve the attached Gifts and Hospitality Policy for Employees.

3. Background

- 3.1 The Gifts and Hospitality Guidance for Councillors and the Policy for Employees were last considered by the Committee at its meeting on 30 October 2018.
- 3.2 The Council when it adopted its Members' Code of Conduct retained the requirement from the previous regime for transparency purposes of the registration and declaration of gifts and hospitality of the value of £50 and above as part of the Councillors Register of Interests. These are published on the Council's website as an integral part of the Committee Management Information System (CMIS). Guidance was produced for Councillors who may be offered gifts and/or hospitality and is included in the Constitution. The Guidance has been reviewed and updated and is attached at Appendix 1 of this report and the Committee is requested to approve the Guidance and to include it in the Constitution.
- 3.3 Council employees are required as part of their terms and conditions of employment to register any gifts and hospitality received in a register which is maintained by each Assistant Director. This register is subject to quarterly and annual review by the Monitoring Officer. In addition the registers are regularly audited by the Council's internal auditors. The employee's policy on gifts and hospitality is published on the Council's intranet and the opportunity has been taken to review and update the Policy which is attached at Appendix 2. The Committee is requested to approve the Policy.
- 3.4 The Monitoring Officer writes annually to both Councillors and Officers reminding them of their obligation regarding declaring and registering gifts and hospitality.

4. Strategic Plan References

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

5. Publicity Considerations

- 5.1 The Constitution is published on the Council's website

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

- 5.1 None.



Guidance for Councillors regarding Gifts and Hospitality

A guide for Councillors regarding
gifts and hospitality.

November 2019

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1. Introduction

- 1.1 The Council's Members' Code of Conduct requires Members and Co-opted Members to include on their Notice of Registerable Interests details of any gift or hospitality received as part of their official duties which may be over the value of fifty pounds. It is also a breach of the Code for a Member to use their position as a Councillor improperly to confer on or secure for themselves or any other person an advantage or disadvantage.
- 1.2 The following guidance aims to assist Members and Co-opted Members in complying with the Members' Code of Conduct but it also goes beyond these basic provisions and seeks to provide wider guidance so Members can avoid situations where their integrity may be caused to be questioned as a result of gifts and hospitality.

2. The Legal Position

- 2.1 The Bribery Act 2010 makes it an offence to offer, promise or give a bribe. The Act also makes it an offence to request, agree to receive, or accept a bribe.
- 2.2 The Act also creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business. A corporate offence is committed where a commercial organisation fails to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation.

3. General Advice

- 3.1 Members are advised to treat with extreme caution any offer or gift, favour or hospitality that is made personally to them. The person or organisation making the offer may be doing business or seeking to do business with the Council or may be applying to the Council for some sort of decision in respect of which it is imperative that the Member's independence should not be compromised e.g. planning approval.

4. Gifts

The following rules should be applied:

- 4.1 Other than the exceptions listed in 4.3 and 4.4 below, a Member should refuse any gift offered to them or to an immediate relative of the Member, by any person who has or may seek to have dealings with the Council. Members must notify the Monitoring Officer of all such refusals as soon as reasonably practicable regardless of the value of the offered gift (unless the gift falls within 4.3 or 4.4 below). The Monitoring Officer will maintain a record for this purpose.
- 4.2 Members should note that the Members' Code of Conduct requires all gifts and hospitality which exceed fifty pounds in value to be entered on the Members Notice of Registerable Interests which is published on the Council's website. Any gifts or hospitality must be registered within twenty eight days of receipt.

The exceptions where it may be appropriate to accept a gift are:

- 4.3 The gift is of purely token, promotional advertising value given to a wide range of people, e.g. pens, key rings and other promotional items. As such promotional gifts will usually be less than fifty pounds in value generally there will be no need to register but in cases of doubt Members should err on the side of caution and register the gift.
- 4.4 A small gift where refusal would cause needless offence and the giver is not currently seeking a decision or business from the Council. Again because such gifts would be of a small value generally there will be no need to register but in cases of doubt Members should err on the side of caution and register the gift.
- 4.5 A gift to the Council. This is particularly relevant to the Mayor or Deputy Mayor who may receive gifts on behalf of the Council. A separate record of such gifts is maintained by the Mayor's Secretary. Gifts made to the Mayor's charities need not be recorded.
- 4.6 Gifts given as prizes at exhibitions, conferences, seminars etc. as part of a free raffle or draw may be accepted but they belong to the Council and should be registered with the Monitoring Officer as soon as reasonably practicable (notwithstanding that their value may be less than the fifty pounds specified in the Members Code of Conduct). The Monitoring Officer in consultation with the Chairman of the Governance Committee will determine whether it is appropriate to retain the gift in question.
- 4.7 Whilst it may be acceptable to accept a token or small gift on one occasion Members should refuse repeated gifts, even if these are individually not of a significant value.
- 4.8 Cash or monetary gifts should always be refused without exception and the refusal notified to the Monitoring Officer as set out in paragraph 4.2 above.

5. Hospitality

- 5.1 Increasingly private companies offer hospitality e.g. free drinks, tickets to shows or hotel accommodation to persons with whom they do business or with whom they hope to do business in the future. Such hospitality could convey the impression that Members' judgement would be influenced. It would however be too rigid to say that no hospitality can be accepted. Members are reminded that any hospitality which exceeds fifty pounds is required by the Members Code of Conduct to be registered. However Members may wish to notify the Monitoring Officer of hospitality offered but refused and hospitality which is less than the fifty pounds limit specified in the Members' Code of Conduct.
- 5.2 Examples of hospitality which may be acceptable follow but much may depend on the particular circumstances, e.g. who is providing the hospitality, why the Member is there and the nature of the dealings between the Council, the Member and the provider of the hospitality:
 - A working meal provided to allow parties to discuss or to continue to discuss business. (A useful test will often be whether you would provide similar hospitality if the situation was reversed).
 - An invitation to attend a dinner or function of a Society, Institute or other non commercial body with whom the Council has contact.
 - Invitations to attend functions where the Member represents the Council (opening ceremonies, public speaking events, conferences)

- An invitation to attend an event which is categorised as a Civic function or reception
- Civic hospitality provided by another Public Authority.

5.3 The following are examples of unacceptable hospitality:

- Holidays, including accommodation and travel arrangements
- Offers of theatre tickets for the Member and their family or free travel
- Personal invitations for evenings out with representatives from a company or firm who have dealings with the council or who are likely to have dealings in the future.

Members are advised to err on the side of caution and if in any doubt as to the integrity of the offer / invite, the Member should consult the Monitoring Officer or refuse.

6. Declaration of Gifts or Hospitality at Meetings

6.1 The Members Code of Conduct requires that any gift or hospitality received and recorded on a Members' Notice of Registerable Interest must be declared by that Member at any meeting for a period of three years from the date of receipt of the gift or hospitality whenever the matter under decision relates to the provider of the gift or hospitality concerned.

7. Further advice

7.1 If any Member has any concerns regarding this Guidance they must seek advice from the Monitoring Officer.



Gifts and Hospitality Policy for Employees

A guide for Council employees
regarding gifts and hospitality
received in the course of their duties.

November 2019

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1. Introduction

- 1.1 These guidelines are here to help employees decide whether or not they should accept offers of gifts or hospitality. In local government you need to be very careful to ensure that the public confidence in your own and the Council's integrity cannot be damaged in any way by your actions.
- 1.2 **If you have any doubts about an offer of a gift or form of hospitality you must refuse and seek the advice of your manager, Assistant Director or the Monitoring Officer.**

2. Gifts

- 2.1 You must be **very careful** when accepting gifts – in some circumstances you could break the law. The general rule is to politely and tactfully refuse offers of gifts from people or organisations who do or might provide work, goods or services to the Council or who seek some decision from the Council – for example, in respect of planning permission.
- 2.2 Gifts of the following type **may** be accepted:
 - **Modest** gifts of a promotional character such as calendars, diaries, articles for use in the office.
 - A **small** gift received at Christmas or on the conclusion of a courtesy visit to a factory or firm, or gifts which are presented at civic or ceremonial occasions.
- 2.3 You must appreciate that these exceptions apply only to **modest gifts** and an expensive gift must not be accepted. Again, if you are **in doubt**, **refuse** the gift and **seek advice** from your manager or Assistant Director.
- 2.4 Gifts which are intended for the Council as a corporate body or intended for a service area can be accepted but you **must not** retain these. Such gifts must be given to the Assistant Director for the service area concerned or the Chief Executive as appropriate.

3. Hospitality

- 3.1 You must use your judgement when accepting an offer of hospitality. You should ask yourself whether members of the public, knowing the facts of the situation, could reasonably think that you might be influenced by the hospitality offered. If the answer is yes, the hospitality should be declined. You should consider:
 - the person or organisation offering the hospitality;
 - the scale and nature of the hospitality; and
 - the timing of the hospitality in relation to decisions to be made by the Council.
- 3.2 Some **examples** of situations and circumstances where hospitality might be **acceptable** are:

- Routine meals at establishments used by the local business community, to discuss business, prior to or following such a discussion. A useful test will often be whether you would provide similar hospitality if the situation was reversed.
- Customary lunches and dinners given at conferences where there are numerous guests and where invitations are formally received and accepted in advance of the conference.
- Courtesy invitations by major companies providing services to the Council, e.g. Bankers, Insurers etc.
- Invitations to join other company guests at sponsored cultural, sporting events or other public performances and openings of other special occasions.
- Civic and ceremonial occasions when accompanying the Mayor.

3.3 Some **examples** of situations and circumstances where hospitality is **unacceptable** are:

- Paid or concessionary holidays or travel.
- Other concessionary rates which are not openly and as a matter of practice, available equally to other organisations.
- Offers of hotel and/or theatre tickets in London (except in circumstances described in 3.2 above).
- The use of company flats or hotel suites.
- Extravagant meals at exclusive venues.
- Frequent hospitality from one source.

3.4 In general, it is usually more acceptable for you to accept hospitality when it is offered to a group rather than something which unique to yourself. You should take greater care if you are offered hospitality when the person or organisation has current dealings with the Council or such dealings are in prospect.

4. Recording Gifts and Hospitality

4.1 **All** gifts and hospitality which you accept **must** be recorded as soon as possible in the Gifts and Hospitality Register held by your Assistant Director. These registers are inspected regularly and countersigned by your Assistant Director and the Monitoring Officer. They are also subject to regular audit by the Council's auditors.

It is your personal responsibility for ensuring that your acceptance of hospitality and/or gifts is entered in the record. Any inappropriate receipt of any gift or hospitality could lead to disciplinary action.

26 November 2019

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

1. Executive Summary

- 1.1 The Council has agreed a Member / Officer Protocol which provides a framework for good working relationships between Councillors and Officers. This report requests the Committee to review the Member / Officer Protocol.

2. Recommended Decision

- 2.1 To agree the Member / Officer Protocol and that it be included in the Council's Constitution.

3. Background

- 3.1 The Member / Officer Protocol is contained in Part 5 of the Constitution. This Protocol provides a framework for good working relationships between Councillors and Officers, to define their respective roles and provide some principles governing conduct.
- 3.2 The Committee last reviewed the Protocol at its meeting on 30 October 2018. It is considered to be operating satisfactorily and no changes are proposed.

4. Strategic Plan References

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

5. Publicity Considerations

- 5.1 The Member / Officer Protocol forms part of the Council's Constitution which is published on the Council's website

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

- 6.1 None.

Member / Officer Protocol

Introduction

- (a) This Protocol sets down a framework for the interaction between Members and Officers to seek to ensure that Members and Officers work together effectively and efficiently to conduct the business of the Council.
- (b) The conduct of Members is governed by the Council's Members' Code of Conduct and Localism Act Arrangements. The conduct of Officers is governed by the Council's Code of Conduct for Council Employees.
- (c) This Protocol does not replace or affect those Codes; it contains a framework relating only to the areas of interaction between Members and Officers. However, a breach of the provisions of this Protocol is likely to constitute a breach of the relevant formal Code which in turn could lead to appropriate formal action being taken.

1 The Respective Roles of Members and Officers

- (1) Members are elected and represent their constituents. Under the Council's Executive Arrangements, Members will perform roles on the Cabinet, Scrutiny Panel, Planning Committee, Licensing Committee, Local Plan Committee, Governance and Audit Committee, and Policy and Public Initiatives Panel, in addition to sitting as members of the Full Council. Some Members represent the Council upon outside bodies.
- (2) Officers are employed by and serve the whole Council. They provide the same level of support to the various functions of the Council, i.e. the Executive (Cabinet), scrutiny and regulatory. Officers advise the Council, the Cabinet, Panels and Committees. They implement decisions of the Council, the Cabinet, Panels and Committees and make decisions under powers delegated to them.
- (3) This protocol also applies to officers employed by the Council which deliver services and functions on behalf of partner organisations i.e. North Essex Parking Partnership and Colchester and Ipswich Joint Museum Service. Additionally, some officers have also been appointed as directors of the Council's commercial companies as a consequence of their employment by the Council and remain subject to this protocol even whilst acting in their directorship capacity.
- (4) Officers are responsible to their line manager and, ultimately, their Assistant Director. Assistant Directors are accountable to an Executive Director. Executive Directors are accountable to the Chief Executive. The Chief Executive is accountable to the whole Council. Some senior officers have specific statutory responsibilities, including Adrian Pritchard, Chief Executive, as the Head of Paid Service (Section 4, Local Government and Housing Act 1989), Andrew Weavers, Strategic Governance Manager, as Monitoring Officer (Section 5, Local Government and Housing Act 1989), and Paul Cook, Strategic Finance Manager as the Interim Chief Finance Officer (Interim Section 151, Local Government Act 1972).

2 Officers' Advice and Political Neutrality

(1) Officer advice and support will be provided to: -

- Council Meetings;
- meetings of the Cabinet and any Committees established by the Cabinet;
- Portfolio Holders and other Cabinet Members (a greater degree of detail may be necessary for Cabinet Members who also carry portfolio responsibilities);
- meetings of Committees/Sub-Committees and Panels;
- Working Parties/Forums, etc;
- Chairmen/Vice-Chairmen of Committees and Panels;
- all Members of Council on Council business

Officers will provide support and advice to the executive, scrutiny and regulatory functions of the Council and will ensure that there is no conflict of interest in the advice given to each of the functions.

Officers will also provide advice and assistance to individual Members in respect of Council business, including issues raised by constituents.

- (2) Officers must not be requested to advise upon matters of party business or private matters.
- (3) All Officers must treat political Groups and individual Members in a fair and even-handed manner. Officers must maintain political neutrality and Members must respect this.
- (4) Senior officers may be invited to attend political Group meetings. The Chief Executive will decide whether such attendance may take place. If it is agreed that an Officer can attend a Political Group meeting, the Chief Executive will inform the other Group Leaders and offer a similar facility.
- (5) Political Group meetings fall outside the Council's decision-making process. Conclusions reached at such meetings are not formal Council decisions and so should not be relied upon as such.

3 Officers' Advice on Declarations of Interest

- (1) Officers from the Council's Governance team will provide advice and information to Members on declarations of interests. However, Members will know the nature and extent of any interest they may have. It is the Member's responsibility, therefore, to decide whether any interest should be declared. Officers must, when requested to do so, respect Members' confidentiality when providing advice on declarations of interest but may otherwise draw to a Members' attention the need to declare a known interest.

4 Personal Relationships

- (1) Close personal familiarity between individual Members and Officers can damage working relationships and prove embarrassing to other Members and Officers. There is the danger of favouritism being shown to a particular Member or Officer. There may be a risk that confidential information will be passed to a Member. Please refer to the Council's Social Media Policy.
- (2) For these reasons, such a personal familiarity is discouraged. Nevertheless, it is recognised that there may be occasions where it is unavoidable, particularly where family relationships or common interests (e.g. a club) arise.
- (3) A Member must declare to the Chief Executive and his/her respective Group Leader any relationship with an Officer that might be seen as influencing his/her work as a Member. This includes a family or close personal relationship. Similarly, the Officer concerned should notify their Assistant Director or, in the case of an Assistant Director, their Executive Director or, in the case of an Executive Director, the Chief Executive. In the case of the Chief Executive, then all Group Leaders should be notified. The Chief Executive and the relevant Executive Director will arrange for the relationship to be included in the formal Declarations of Interests provided by the Member and Officer.

5 Appointment of Officers

- (1) Members must not take any part in the appointment of anyone to whom they are:
 - married;
 - a partner;
 - otherwise related;
 - a friend;
 - a business associate.
- (2) Members must ensure that Officers are appointed only on merit in line the Council's HR recruitment policies, with a view to their best serving the whole Council.

6 Undue Pressure

- (1) A Member should not apply undue pressure on an Officer to do anything which he/she is not empowered to do, or which is against the Officer's professional judgement, or to undertake work outside normal duties or normal hours.
- (2) Similarly, an Officer must not seek to influence an individual Member to make a decision in his/her favour, nor raise personal matters to do with his/her job, nor make claims or allegations about other employees, except in accordance with any agreed Council procedure or in accordance with law. Members who receive any such approach from an Officer should advise the Chief Executive and/or the appropriate Executive Director immediately. The Council has formal procedures for consultation, grievance and discipline, etc. dealing with these matters.

7 Officers' Reports and Advice

- (1) The named author(s) of a report to the Council or any part of its formal decision-making structure will always be fully responsible for the contents of it. Under overview and scrutiny arrangements, an Officer can be held responsible for the contents of his/her reports or advice and be required to answer for the advice given.
- (2) The Leader, Cabinet Member and/or Chairman of the relevant Committee or body may comment upon a proposed report, either during the original consultation process or following receipt of a draft agenda. The Officer concerned will give due consideration to such comments, consulting his/her relevant Executive Director or Assistant Director and other appropriate Officers as necessary. The Chief Executive will be the final arbiter upon the contents of any report.
- (3) A report will only be amended where the suggested amendment also reflects the professional judgement of the author of the report. Any remaining disagreement between the Cabinet Member/Chairman and the author of the report should be referred to the Chief Executive, or, if the author of the report is the Chief Executive, to the Monitoring Officer for resolution after consultation with the Leader.
- (4) Occasionally, Officers will need to express a professional view on a matter which may not support the view of the leading Group and/or the relevant Senior Officers of the Council.
- (5) Members should not put an Officer in a position where there would be a conflict between himself/herself and his/her line manager, Head of Service or Executive Director, nor should the Officer receive detrimental treatment as a consequence if the Member is aggrieved.

8 Officer Decisions made under Delegated Powers

- (1) Officers may make decisions under powers delegated to them pursuant to the Schemes of Delegation or by specific authority from the Cabinet, a Cabinet Member, Panel or Committee. It must be recognised that it is the Officer, and not any Member, who takes the action and it is the Officer who is accountable for it.

9 Officers relationship with the Leader, Cabinet Members and the Chairman of the Scrutiny Panel

- (1) The working relationship between Senior Officers and the Leader/Cabinet Members will be particularly close. Cabinet Members will have broad-ranging responsibilities. Officers may provide briefing notes, advice and information to the Cabinet Members in respect of reports or questions at Panel, Committee and Council Meetings. This relationship, however, must not:
 - compromise Officers' duties to all members of the Council;
 - be so close as to give the appearance of partiality on the part of the Officer;
 - undermine the confidentiality of any discussions with the Senior

Management Team or between Senior Officers and other Members;

- compromise Officers' professional responsibility to advise Members that a particular course of action should not be pursued;
 - abrogate Officer responsibility for action taken under Delegated Powers.
- (2) There will also be a close working relationship between senior officers and the Chairman of the Scrutiny Panel within the remit of scrutiny of executive functions.

10 Constructive Criticism/Complaints

- (1) It is important that there should be mutual courtesy between Members and Officers. It is important that there are reasonable standards of courtesy and no Member or Officer should seek to take unfair advantage of their position.
- (2) Members and Officers should not criticise or undermine respect for the other at Council Meetings or at any other meeting they attend in their capacity as a Councillor or Council employee.
- (3) Members should not raise matters relating to the conduct or capability of an individual Council Officer or Officers collectively at meetings held in public.
- (4) Members when acting in their official capacity must comply with the Council's Social Media Policy and should not use social media to abuse, harass or undermine respect for officers. Officers should not use social media to criticise or undermine respect for Members and must comply with the Council's Social Media Policy at all times.
- (5) If a Member believes that he/she has not been treated with proper courtesy or has a concern about the conduct or capability of an Officer, he/she should raise the matter with the respective Assistant Director. If he/she is not satisfied with the action that has been taken in response to this, he/she may raise the matter with the Chief Executive who will look into the matter afresh. If the Chief Executive believes that there is a case to answer he/she may determine the action to be taken which might include the Council's formal disciplinary procedures. If the Officer concerned is the Chief Executive then the Member should raise the matter with their Group Leader, who should initially discuss the issue with the Chief Executive.
- (6) If an Officer feels that he/she has not been treated with respect or is concerned about any action or statement relating to him/herself or a colleague by a Member, or conduct of a Member, the Officer should raise the matter with his/her Assistant Director. If the Officer is not satisfied with any action that has been taken as a result, the Officer should raise the matter with his/her Executive Director. If there is a serious case to answer the Executive Director, with the agreement of the Chief Executive, may request that the matter be investigated through the Council's Governance and Audit Committee's procedures.
- (7) Where an Officer or Member is concerned about potential unlawful conduct of an Officer or Member, the Council's Whistleblowing Policy may also be relevant. Nevertheless, the procedure outlined in this protocol should be first reference where possible.

11 Members' access to information and to Council documents

- (1) Each Member has the right to inspect and have copies of the reports, minutes and background papers relating to the public part of any Council, Cabinet, Panel or Committee agenda. However, Members do not have an automatic right of access to all documents relating to confidential or "Exempt" items on the agenda. These might include, for instance, information relating to employees, occupiers of Council property, applications for grants, contracts, industrial relations negotiations, legal advice and criminal investigations. These provisions are detailed in the Access to Information Procedure Rules.
- (2) In respect of such confidential information, Members will normally receive, or have access to all papers unless they are of particular sensitivity. A Member may have access to such sensitive documentation insofar as it is reasonably necessary to enable him/her to properly perform his/her duties as a Member of the Council. The relevant question to be asked is whether he/she needs to know the information to perform such duties.
- (3) A member of the Cabinet, Panel or Committee will have a need to know of the documentation relating to that body. In other circumstances, a Member will normally be expected to justify the request in specific terms and the motive for requesting the information will be relevant. The question as to access to the documentation will be determined by the Monitoring Officer.
- (4) Members of the Scrutiny Panel have the additional rights to access contained at Rule 22 of the Access to Information Procedure Rules.
- (5) Where a Member has a Disclosable Pecuniary Interest in a matter, the Member will only be entitled to the same rights of access to documentation as would apply for the public generally, although the Member would continue to receive the same documentation as is sent to other members of the Council.
- (6) Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council. Confidential information should not be disclosed, discussed with or released to any other persons. Such disclosure would be a betrayal of trust. In particular, Members should never disclose or use confidential information for the personal advantage of themselves or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.
- (7) Any confidential information provided to Members should be clearly marked as such prior to its provision.
- (8) Further advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.

12 Public Relations and Press Releases

- (1) By law the Council is prohibited from publishing material which appears to be designed to affect public support for a political party. News releases are written by Officers but they may contain quotations from a Member. Such news releases are issued on behalf of the Council and it would not, therefore, be appropriate when repeating quotations from Members to indicate their

party political affiliation. The aim will be for the news releases to be objective, factual and informative. The Council has also adopted a guide to pre-election publicity which provides advice upon publicity and activities during a pre-election period.

- (2) The Council will abide by the National Code of Recommended Practice on Local Authority Publicity.
- (3) For detailed guidance please refer to the Council's Media Protocol.

13 Council Publications

- (1) The Council's range of e-magazines shall remain politically neutral. They may contain quotes from Portfolio Holders in line with Council policy. Reports of decisions made shall be those of the Council represented as the body corporate.
- (2) Publications issued by Service Groups may contain quotations from Cabinet members in line with Council policy on the matter. Where policy has yet to be determined, a Cabinet member should not indicate his/her preference. If the Council has no policy on a particular matter and a Cabinet member wishes to comment, the same opportunity must be made available to Shadows.

14 Member Support Services

- (1) The Council provides a range of support services, including stationery, postage and an e-mail address to enable Members to carry out their duties. These may only be used on Council business, such as correspondence between Members or Members and Officers; or in response to queries raised by local people. They must not be used for any party political, mailing list or election purposes whatsoever. Members must not ask Officers to type, photocopy or otherwise process any party political or election material.

15 Correspondence

- (1) Unless a Member or Officer requests confidentiality, it is to be assumed that correspondence between a Member and an Officer is not confidential and may be shown to others. If, in an Officer's view, correspondence between an individual Member and an Officer is of interest to other Members, to keep them fully informed, it should be made clear to the original Member that copies could be sent to other Members.
- (2) Where issues are raised by, or with, individual Members relating to a matter of general interest in a Borough Ward, as it is in the best interests of the Council to ensure that all Members are properly informed of general issues in their Ward, copies of correspondence will only be sent by agreement of the individual Member.
- (3) Officer letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to be signed by a Member, but this should be the exception rather than the norm.

16 Involvement of Ward Members and MPs

- (1) Information regarding activities in particular Ward should, when appropriate, be copied to the Ward Member(s) and Essex County Council Divisional Member(s) for information. Ward Members should be invited to take part in or

attend any public meeting, consultative exercise or launch event organised by the Council concerning a local issue.

- (2) If an Officer calls a meeting upon a local issue with or including Ward Members, the Officer will invite all Members for the Ward(s) in question.
- (3) If any of the Members of Parliament that represent the borough are involved in the local issue, the Officer at his/her discretion may invite the relevant MP's to the meeting in addition to the Ward Members. If the Officer considers this to be inappropriate for any reason he/she may meet the MP separately.
- (4) If a Ward Member calls or requests a meeting upon a local issue at which an Officer or Officers is/are requested to be in attendance, the Officer(s) will be required to attend only if all the Members for the Ward have been invited to attend, or are agreeable to the meeting taking place, and if the subject matter of the meeting is not politically controversial.
- (5) If a MP calls or requests a meeting upon a local issue at which an Officer or Officers is/are requested to be in attendance, the same criteria govern the Officer's attendance as in paragraph (4) above.
- (6) Meetings with Ward Members and/or MP's and/or others are generally private. Officers may confirm the events which occurred at the meeting and the outcome of it with the Members who attended, but will not reveal those matters to other Members or to other political groups except with the specific authority of the Member(s) who attended or called the meeting.

17 Ministerial Visits

- (1) If an Officer is made aware that a visit will be made to the Borough by a Minister of Her Majesty's Government (whether at the invitation of the Borough Council or otherwise), the officer shall advise Group Leaders of the visit together with any input required from Members or officers of the Council. Consideration shall be given to inviting the Mayor, the Leader, the relevant Portfolio Holder, other Cabinet Members, Shadow Spokespersons and Ward Councillors.
- (2) Where a visit to the Borough by a Minister of Her Majesty's Government is within the control of the Council, the Member of Parliament in whose constituency the visit is to take place, shall be invited to attend.

18 Procedure for dealing allegations of breaches of this Protocol

- (1) Any allegations that a Member has not complied with this Protocol may be referred to the Governance and Audit Committee who will determine the issue. One of the Council's Independent Persons appointed under the Localism Act 2011 will be invited to attend and advise the Committee (but not vote).
- (2) Any allegations that an Officer has not complied with this Protocol will be dealt with in accordance with the Council's Human Resource procedures.
- (3) This Protocol will be reviewed annually by the Governance and Audit Committee

26 November 2019

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Guidance for Members on Dispensations		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 The Council provides guidance on its process for councillors regarding the granting of dispensations for councillors who, due to having a Disclosable Pecuniary Interest, are precluded from participating on agenda items.

2. Recommended Decision

- 2.1 To approve the attached Guidance for Members and Co-opted Members on Dispensations and that it be included in the Constitution.

3. Background

- 3.1 The Localism Act provides that a dispensation may be granted in relation to a Member or a Co-opted Member with a Disclosable Pecuniary Interest only if after having had regard to all relevant circumstances, the Authority considers: –
- (a) that so many members of the decision-making body have Disclosable Pecuniary Interests in a matter that it would “impede the transaction of the business” ;
 - (b) that without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
 - (c) that the dispensation is in the interests of persons living in the Authority’s area;
 - (d) that without a dispensation, no member of the Cabinet would be able to participate on the matter; or
 - (e) that it is otherwise appropriate to grant a dispensation.
- 3.2 Any grant of a dispensation must specify how long it lasts for, up to maximum of four years.
- 3.3 The Localism Act gives discretion for the power to grant dispensations to be delegated by the Authority to a Committee or a Sub-Committee, or to the Monitoring Officer.
- 3.4 Full Council has delegated:
- (a) the power to grant dispensations on the grounds set out in paragraphs 3.1 (a) and (d) to the Monitoring Officer, with an appeal to the Governance and Audit Committee; and

- (b) the power to grant dispensations on the grounds set out in paragraphs 3.1 (b), (c) and (e) to the Governance and Audit Committee, after consultation with the Independent Person.

3.5 Guidance for Members and Co-opted Members outlining the process for granting dispensation was produced and was last reviewed in 2014. No requests for dispensations have been made since the introduction of the process. Attached to this report is an updated version of the Guidance which includes only minor amendments. It is suggested that the levels of delegations remain appropriate and that the Committee is requested to review the updated Guidance and to agree that it be included in the Constitution.

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 Constitution is published on the Council's website

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

5.1 None.

Guide for Members and Co-opted Members on Dispensations

A guide to the Council's process for granting dispensations to Councillors in certain circumstances.

November 2019

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1.0 Introduction

- 1.1 The Localism Act 2011 (“the Act”) requires all Members (Councillors) and Co-opted Members to register any Disclosable Pecuniary Interests in a public register of interests maintained by the Monitoring Officer.
- 1.2 The Act enables a Member or Co-opted Member to participate in Council business in circumstances where they would otherwise be precluded due to a Disclosable Pecuniary Interest recorded in their register of interests if they act in accordance with a dispensation granted by the Authority.
- 1.3 If a Member or Co-opted Member acts in accordance with a dispensation granted to them, any participation in business of the Council that would otherwise be prohibited by the Act or the Members’ Code of Conduct (i.e. the Member has a Disclosable Pecuniary Interest), is not treated as a criminal offence under the Act or a failure to comply with the Members’ Code of Conduct.

2.0 In what circumstances may the Authority grant a dispensation?

- 2.1 The Act provides that a dispensation may be granted to a Member or a Co-opted Member who has a Disclosable Pecuniary Interest only if after having had regard to all relevant circumstances, the Authority considers: –
 - (a) so many members of the decision-making body have Disclosable Pecuniary Interests in a matter that without the dispensation it would “impede the transaction of the business” i.e. not be quorate;
 - (b) that without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the likely outcome of any vote on the matter;
 - (c) that the granting of the dispensation is in the interests of persons living in the Authority’s area;
 - (d) that without the dispensation, no member of the Cabinet would be able to participate on the matter; or
 - (e) that it is otherwise appropriate to grant a dispensation.

3.0 How will the Authority consider a request for a dispensation?

- 3.1 When determining a request, the Authority must have due regard to the matters mentioned in paragraph 2.1 above, the Member’s or Co-opted Member’s written request, and to all relevant circumstances of the case as to whether it is appropriate to grant the dispensation.
- 3.2 The granting of a dispensation is discretionary and there is no obligation on the Authority to grant one.
- 3.3 If granted, the details of the dispensation will be entered into a register of dispensations which will be maintained by the Monitoring Officer on behalf of the Governance and Audit Committee and will be open to public inspection. This

register will be kept with the Register of Members Interests also maintained by the Monitoring Officer.

3.4 Full Council at its meeting on 25 June 2012 agreed that:-

- Requests for dispensations relating to grounds (a) and (d) referred to at paragraph 2.1 above will be considered by the Monitoring Officer (or by an officer duly authorised by the Monitoring Officer in that regard); and
- Requests for dispensations relating to grounds (b) (c) and (e) will be considered by the Governance and Audit Committee.

4.0 Circumstances in which the Authority may not grant a dispensation

4.1 The Authority cannot grant a dispensation to:-

- (a) allow a member of an Overview and Scrutiny Committee to participate in the scrutiny of a decision made by any body of which that person was a member at the time the decision was taken; or
- (b) allow an individual Cabinet member to exercise executive functions solely; i.e. where a portfolio holder makes a decision pursuant to the Cabinet Scheme of Delegation.

5.0 How long will a dispensation last?

5.1 Once granted, a Member or a Co-opted Member can rely on the dispensation for the period specified by the Authority up to a maximum of four years from the date of its grant.

6.0 Declaring the existence of a dispensation

6.1 Following the granting of a dispensation, it is the responsibility of the individual Member or Co-opted Member to declare the existence and nature of the dispensation at every meeting of the Authority where the business to be transacted relates to the dispensation.

7.0 How to apply for a dispensation

7.1 All requests for a dispensation must be made individually in writing by a Member or Co-opted Member and must specify why the Authority should consider granting a dispensation and must address the points mentioned at paragraph 2.1 above. A form is attached to this Guidance for Members use.

7.2 All requests for a dispensation in relation to grounds (a) and (d) referred to in paragraph 2.1 above must be made at least one clear working day ahead of the meeting for which it is requested. This is to enable the appropriate officer to consider the request.

7.3 All requests for a dispensation in relation to grounds (b) (c) and (e) referred to in paragraph 2.1 above must be made at least ten clear working days ahead of the meeting for which it is being requested. This is to enable the Governance and Audit Committee itself to be convened in accordance with the statutory notice requirements under the Local Government Act 1972.

7.4 All written requests for a dispensation must be addressed to:

The Monitoring Officer
Colchester Borough Council
Rowan House
33 Sheepen Road
Colchester
CO3 3WG

E-mail : andrew.weavers@colchester.gov.uk

Colchester Borough Council Governance and Audit Committee

Dispensation request form

Please give full details of the following in support of your application for a dispensation. You should refer to the accompanying guidance. If you need any help completing this form please contact the Monitoring Officer.

Your name	
Decision making body in which you require a dispensation	
Details of your membership of that body	
The business for which you require a dispensation (refer to agenda item number if appropriate)	
Details of your interest in that business	
Date of meeting or time period (up to 4 years) for which dispensation is sought	
Dispensation requested to participate, or participate further, in any discussion of that business by that body	
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	
Full reasons why you consider a dispensation is necessary (use a continuation sheet if necessary)	

Signed: Dated:

Please send your completed form to the Monitoring Officer, Colchester Borough Council, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG by e-mail to andrew.weavers@colchester.gov.uk

26 November 2019

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Guidance for Councillors and Officers on Outside Bodies		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 The Council provides guidance for councillors and officers who are appointed by it to outside bodies and their respective roles and responsibilities.

2. Decision(s) Required

- 2.1 To approve the attached Guidance for Councillors and Officers on Outside Bodies and that it be included within the Constitution.
- 2.2 That all Councillors and Officers who are appointed to serve on outside bodies are provided with a copy of the Guidance.

3. Background

- 3.1 The Council has for several years provided guidance to Councillors and officers who are nominated by Cabinet to serve on outside bodies. Nominations are usually for a period of one year and can be to a variety of organisations which can have differing legal status. The existing Guidance was last reviewed by this committee on 15 October 2013. Accordingly, it is now timely to update and review its contents particularly following the creation of Colchester Commercial (Holdings) Limited.
- 3.2 Councillors and in some circumstance's officers, are initially appointed to outside bodies to represent the Council however along with the appointment comes potential liability in other capacities. For example, if a Councillor is appointed to the board of a company they become a director of that company and with that comes the responsibilities of a company director including their fiduciary duty to the company which must take priority to their responsibility back to the Council. The revised Guidance attached to this report seeks to provide advice the Councillors in these situations.
- 3.3 The revised guidance seeks to provide guidance for Councillors and officers in relation to the law and practical advice to situations that they could find themselves in having been appointed to an outside body.
- 3.4 It is suggested that the revised guidance is provided to all Councillors and officers who are nominated to outside bodies and that it be included in the Constitution.

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 Constitution is available on 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.

Guidance for Councillors & Officers on Outside Bodies

A guide to the law for Councillors and Officers who are appointed to represent Colchester Borough Council on another body.

November 2019

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GUIDANCE FOR MEMBERS ON OUTSIDE BODIES

This advice is for Councillors and officers who represent the Council on organisations outside the Council, whether as company director, trustee of a charity or a representative on a management committee. It simply sets out some of the most important responsibilities. It is not meant to be a comprehensive guide. If Councillors or officers have queries, then they must contact the Monitoring Officer for advice.

1.0 Introduction

Councillors are appointed formally by the Council annually to serve on a range of outside bodies, including voluntary organisations, local government associations and other organisations.

In performing that role, Councillors can act as individuals, representatives of the Council, directors or trustees. There are both positive and negative aspects to the role:

a) **Positive**

- acting according to the rules, constitution and framework set by the outside body;
- making independent and personal judgements in line with their duty of care to the outside body;
- reporting back, at least annually, to the Council or relevant committee;
- behaving ethically and following as far as applicable the Members' Code of Conduct; and
- taking an active and informed role in the management of the outside body's affairs.

b) **Negative**

- not representing the political party to which Councillors owe their political loyalty;
- not avoiding taking part in the outside body's discussions and decisions;
- not looking at things simply from the Council's perspective; and
- not being there in name only and merely turning up to meetings.

The role of Councillors on outside bodies may give rise to occasional uncertainty and perhaps conflicts of interest. This Guidance offers a simple legal guide on the responsibilities of Councillors and officers. Councillors are asked to read this

guidance and if there are issues arising from their particular situation at any time, to contact the Monitoring Officer for advice.

Councillors (and officers) are under a specific obligation as a result of the Local Authorities (Companies) Order 1995 to report back to the Council on their involvement in outside companies to which they have been nominated by the Council. That obligation is best met by an annual report to the relevant Portfolio Holder. While the law makes this a requirement for involvement in outside companies, it is self-evident that the requirement to report back should apply to involvement in all outside bodies.

This guidance and the Members' Code of Conduct addresses some of the issues around the possibility of conflicts of interest. **In essence, if the outside body (including Council owned companies) comes into conflict with the Council and the Councillor is a director or on the management committee of the outside body, the Councillor's prime duty would be to the outside body in the conduct of the outside body's affairs.** Councillors are however given specific dispensation (a non-pecuniary interest) in the Members' Code of Conduct to participate in the Council decision-making process in relation to the outside body to which he or she has been appointed.

If there is a major dispute between the Council and the outside body, then the Councillor may be placed in an untenable situation. Before taking precipitate action, the Councillor is advised to seek advice from either the Chief Executive or the Monitoring Officer.

In certain circumstances, it is possible that the Councillor may find he/she is unable adequately to carry out their responsibilities properly, both as a Member of the Council and as a member or director of the outside body. It is suggested that this would be an exception and should not deflect Councillors generally from being prepared to participate in the management and running of outside organisations.

2.0 General

- (1) There are some general provisions which apply to Councillors and officers who act in the role of company director, trustee or member of an incorporated body, such as a Council controlled company, the committee of management of an unincorporated voluntary organisation.
- (2) Councillors are under a duty to exercise independent judgment in the interest of the organisation in which they are involved. Whilst it is recognised that Councillors and officers may have a commitment to representing the Council on the outside organisation, they must be aware that it is their responsibility to decide what view to take on any question before that organisation. Where a Councillor or officer is partaking in an outside organisation in a representative capacity, he/she must declare that fact to the organisation. There will be a fine line to tread between his/her duty to the organisation and to the Council.
- (3) The bottom line is that in the end, the Councillor or officer in acting as a director, trustee or member of a management committee of an organisation, must act in accordance with the interests of that organisation. A mandate from the Council to vote one way or the other would put the Councillor or officer in breach of the duty to the organisation. It is permissible to take account of the Council's wishes, but not to vote simply in accordance with them. **The overriding duty in considering an item before the outside organisation is to vote in accordance with the interests of that organisation.**
- (4) Councillors and officers must also ensure that avoidable loss is not incurred in managing the organisation. They cannot avoid this responsibility by not reading the papers or failing to ask for appropriate reports. They will be expected to seek professional advice where appropriate.

3.0 Companies

- (1) On incorporation a company becomes a separate legal entity which can hold property in its own right, enter into contracts and sue and be sued in its own name. The company is distinct from its shareholders and members. In the case of a limited liability company, the liability of members of the company is limited to the amount they paid or agreed to pay when they joined the company. This can be as little as £1.
- (2) Companies limited by shares are those which have share capital (e.g. 1000 shares of £1 each). Each member holds shares and receives a share in the profits made by the company according to the value of the shares held. Shares can be sold. Companies limited by guarantee are those where there is no shareholding. Instead each member agrees that in the event of the company being wound up they will agree to pay a certain amount. This may also be as little as £1. This form of company is the most usual in the public and voluntary sector particularly where charitable status is sought.

- (3) The management of a company is generally the responsibility of a board of directors. The powers of the directors are usually set out in the company's Articles of Association (the rules each company has to govern its internal management). Sometimes even though a company has been incorporated the directors may be referred to as members of the management committee, governors or trustees. However, this does not change their status as directors. Conversely, sometimes officials are called directors, but they are not members of the board. Again, their status will not be affected. Directors are those who are appointed by the company to act in that capacity.

3.1 Directors' Duties

A director is an agent of the company. There are 7 statutory duties owed by a director to a company and these form the basis of what being a company director is all about.

Statutory duties of a company director

To act within powers	<ul style="list-style-type: none"> • Must act in accordance with the company's Articles of Association at all times
To promote the success of the company	<ul style="list-style-type: none"> • Must act in good faith to promote success of the company for benefit of shareholder • Board decisions to be made in best interests of the company
Exercise independent judgement	<ul style="list-style-type: none"> • Make informed decisions on the company's activities • Not to simply implement requirements of shareholder
Exercise reasonable care, skill and diligence	<ul style="list-style-type: none"> • What is expected of a reasonably diligent person with general knowledge, skill and experience carrying out directors' functions.
Avoiding conflicts of interest	<ul style="list-style-type: none"> • Avoid or manage conflicts of interest which may affect objectivity
Not to accept benefits from third parties	<ul style="list-style-type: none"> • Not accepting a benefit from a third party due to being a director of the company
Declare interest in proposed transaction or arrangement	<ul style="list-style-type: none"> • Declare any direct or indirect interest in any proposed transaction or arrangement with the company

3.2 Directors' Liabilities

- (1) The company's identity must clearly be shown on its stationery. The company number, place of registration, registered office address and if any of the directors' names are shown then they must all appear. Non-compliance is an offence and the directors and company officers can be fined.
- (2) A company can only act within the scope set out in its Articles of Association. Any director knowingly causing the company to act beyond the activities set out in the Articles could be liable personally. In very limited circumstances it is possible for the actions of the directors to be ratified by the members of the company.
- (3) A director may also be liable for breach of trust, if they misapply the money or property of the company. Directors may also be liable if they fail to take action to prevent the breach of a co-director of which they are aware.
- (4) In the event of failure to act in accordance with the best interests of the company, or if a director uses their powers improperly or makes a personal profit from their position as director, then the director may be personally liable for loss to the company and may be required to give the company the personal profit made.
- (5) If the level of skill and care shown by a director falls below that which could be reasonably expected and the company suffers loss, the director will be liable for the loss incurred. However, if it believes the director acted honestly and reasonably, a Court may excuse the director the liability.
- (6) If a director knows or ought to know that there is no reasonable prospect of the company avoiding liquidation, a Court may require that director to contribute to the company's assets on liquidation if the company continues to trade. This is known as wrongful trading. No such order will be made if the Court is satisfied that the director took all reasonable steps to minimise the loss to the creditors. If a director has concerns about the company's financial position, they would be well advised to inform the other directors and seek advice from the company auditors. They should try to ensure that further debts are not incurred.
- (7) A director will also be liable if to their knowledge the company carries on business with intent to defraud creditors or any other person, or for any other fraudulent purpose. Fraudulent trading can also lead to disqualification from action as a director.
- (8) All cheques and similar documents which purport to be signed on behalf of the company must bear the company name. Where they do not, the director signing on behalf of the company may be liable to a fine and may also be liable to the payee if the company fails to honour the cheque. It is therefore wise for directors to make sure that all documents they sign on behalf of the company state very clearly that they act as agent for the company (e.g. Director, for and on behalf of ...).
- (9) A third party who enters into a contract on the assumption that a director has power to bind the company, may be able to claim damages against the director if it subsequently transpires that the director had no such power. Directors would be well

advised to ensure that contracts are approved by the board and that the authority to enter into any contract has been properly delegated before signing it.

- (10) Though company liability ceases on dissolution the liability of the directors (if any) may still be enforced after dissolution.

3.3 Indemnities

- (1) Directors cannot be indemnified against liability arising out of negligence, default or breach of duty or trust. However, the company's Articles of Association may allow for directors to be indemnified by the company in respect of the cost of defending such proceedings if the director is granted relief by the Court or acquitted. **It is lawful for companies to purchase insurance to protect its directors against claims of negligence, breach of duty, trust, default. Directors would be well advised to ensure that such a policy of insurance is maintained at all times.**
- (2) It is not possible for the Council to provide indemnities or insurance for Councillors acting as directors, except in a few circumstances outlined in Section 5 below.

3.4 Local Authorities (Companies) Order 1995

- (1) This Order, sets out rules concerning local authorities' involvement in "regulated companies" which are subject to extensive controls, and their involvement in other companies where a number of rules apply.
- (2) "Regulated companies" are so defined if they are controlled or influenced by the local authority e.g. Colchester Commercial (Holdings) Limited and Colchester Borough Homes Limited. "Influenced companies", under the effective control of the local authority, will be subject to capital finance regime and special propriety controls. In broad terms, the test as to whether companies are local authority influenced is whether the local authority has the right to or in fact does exercise a dominant influence over the company in question.
- (3) The original concept of controlled, influenced and minority interests in companies was introduced by the 1989 Act. "Influenced" means at least 20% local authority interest plus a business relationship with the company accounting for over 50% of the company's turnover and/or the company was located on local authority land leased or sold for less than best consideration. "Controlled" means over 50% local authority interests, and "minority" less than 20% interest. The concept in the 1989 Act stands, but the Order introduces the term "regulated".
- (4) Councillors who are directors of outside companies to which they have been nominated by the Council are under the following obligations: -
- (a) that the remuneration they receive from the company should not exceed that received from the local authority, and should be declared
 - (b) to give information to Councillors about their activities as required by the local authority (save for confidential information); and

- (c) to cease to be a director immediately upon disqualification as a Councillor.

4. Charities

- (1) To be a charity an organisation must operate for a charitable purpose; i.e.:
- the relief of poverty and human suffering
 - the advancement of education
 - the advancement of religion
 - another purpose for the benefit of the community
- (2) It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not qualify for charitable status.
- (3) To register as a charity the organisation must submit its Trust Deed (usually the Articles of Association of a company limited by guarantee) to the Charity Commission for approval. If they are satisfied that the organisation is charitable, it will be registered as such.
- (4) Those who are responsible for the control and administration of a charity are referred to as its trustees, even where the organisation is a company limited by guarantee even though they are not strictly trustees. Trustees of a charity retain personal liability, and can only delegate if the trust deed authorises them so to do.

4.1 Trustees' Duties

- (1) Trustees must take care to act in accordance with the Trust Deed and to protect the charity's assets. They are also responsible for compliance with the Charities Acts.
- (2) Trustees must not make a private profit from their position. They must also perform their duty with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.
- (3) Charitable trustees must ensure that the information relating to the trust and trustees is registered with the Charity Commission and that annual accounts and returns are completed and sent.
- (4) If charitable income exceeds £5,000, the letters, adverts, cheques etc must bear a statement that the organisation is a registered charity.
- (5) Trustees are under a duty to ensure compliance with all relevant legislation (e.g. in relation to tax matters).

4.2 Trustees' Personal Liability

- (1) If in doubt, always consult the Charity Commission. A trustee who does so will avoid personal liability for breach of trust if they acts in accordance with the advice given.
- (2) Generally, though, a trustee incurs personal liability if they:-
 - acts outside the scope of the trust deed
 - falls below the required standard of care
 - makes a personal profit from the trust assets
- (3) In such circumstances the trustee will incur personal liability for losses incurred.
- (4) Trustees can be liable personally to third parties because unlike a company, a trust has no separate identity from the trustees. Trustees are, however, entitled to an indemnity from the trust assets, provided they act properly in incurring the liability. Trustees remain personally liable once they retire (e.g. if they have entered into a contract on behalf of the trust) and should therefore seek an indemnity from their successors. If the charity is a company however the trustees for the time being will be responsible.
- (5) Trustees may be liable to fines if they do not comply with the duty to make returns etc.

4.3 Indemnities

An indemnity can be given from the trust fund provided the trustee has acted properly and within their powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts, fraud, etc. There will be no problem if the trustees themselves pay the premiums but if they are paid out of the charitable funds the trustees will need the consent of the Charity Commission unless the trust deed allows it.

5. Management Committees

5.1 Unincorporated Associations

- (1) Groups which are not charitable trusts or limited companies are "unincorporated associations" and have no separate legal identity from their members. The rules governing the members' duties and liability will be set out in constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for a Management Committee to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and may register as a charity.
- (2) Property will have to be held by individuals as the organisation has no existence of its own.

5.2 Duties

Broadly, Management Committee members must act within the constitution, and must take reasonable care in exercising their powers.

5.3 Liabilities

- (1) Generally, the Management Committee members are liable for the acts of the organisation but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the Committee members are personally liable for the shortfall.
- (2) If one person is appointed by the constitution to act as the agent of the organisation for certain purposes, then that person acts as the agent of all the members, who have joint liability for the agent's actions.
- (3) Management Committee Members will have personal liability if they act outside the authority given to them or if they do not comply with statute e.g. payment of employees' tax etc.

5.4 Indemnities

Members will be entitled to an indemnity if they act in accordance with the constitution and are not at fault. It is possible to obtain insurance but if the organisation is to pay the premium it must be permitted by the constitution.

6. Insurance Indemnity provided by the Council

The Council's insurance cover only operates when Councillors are pursuing their Council duties. Generally, whilst the Council appoints Councillors to outside bodies, once appointed they act as members of the body rather than as Councillors.

In most cases where a Councillor is acting as a Director or as a Trustee, or indeed as a member of a Management Committee, he or she will be exercising judgement on behalf of the organisation and will therefore need to ensure indemnity is obtained from that organisation.

However, where the organisation is a joint committee of two or more local authorities, the Borough Council can provide indemnity.

Further, where the Councillor is clearly representing the Authority's interests as an observer or as an advisor, then the Borough Council can again provide indemnity.

If in doubt Councillors should seek advice from the Monitoring Officer.

26 November 2019

Report of	Assistant Director of Policy & Corporate	Author	Hayley McGrath
Title	Annual Review of Business Continuity		☎ 508902
Wards affected	Not applicable		

1. Executive Summary

- 1.1 Colchester Borough Council provides a wide range of services to the local community. Any unexpected interruption to those services can have a negative impact on both the community and the authority. As such, the Council has established a Business Continuity process to minimise, as far as possible, the likelihood of an incident occurring and the potential impact if it does happen.
- 1.2 This report provides Members with an overview of the of the Council's Business Continuity activity for the period from 01 October 2018 to 30 September 2019.

2. Recommended Decision

- 2.1 Consider and comment on the business continuity work undertaken during the period.
- 2.2 Endorse the Business Continuity Strategy for 2020.

3. Reason for Recommended Decision

- 3.1 The Risk Management Strategy, which forms part of the policy framework, identifies the Governance & Audit Committee as being responsible for reviewing the effectiveness of the risk management process and reporting critical items to cabinet as necessary. Business continuity is an integral part of the risk management process and it is appropriate that a detailed progress report is provided to this Committee.

4. Alternative Options

- 4.1 There are no alternative options to consider

5. Background Information

- 5.1 Whilst Business Continuity primarily relates to the delivery of the Council's own services, it sits alongside the Council's responsibilities for Emergency Planning, where the Council is required to assist the emergency services in dealing with events in the borough (such as flooding) as set out in the Civil Contingencies Act 2004. Under the act there are two duties relating specifically to business continuity:
 1. To be able to carry on providing its own services in the event of a disruption
 2. To provide advice and guidance relating to business continuity to local businesses and voluntary organisations.

- 5.2 The responsibility for ensuring that the Council has effective business continuity plans rests with the Chief Operating Officer and the function is delivered by the Corporate Governance Team. The role is to provide advice and guidance to services including the co-ordination of individual service plans as well as the overall Council plan. Issue specific plans, such as responding to a flu pandemic, are also required.
- 5.3 Business continuity issues are primarily reported to the 'First Call Officer' group, this consists of the senior management team and other key staff. The primary role of this group is to provide the strategic management of any emergency – either internal or external. The group meets every two months to review plans and consider emergency planning and business continuity issues.

6. Summary of Work Undertaken

- 6.1 The primary focus for 2019 has been preparations for the United Kingdom's exit from the European Union. This has required a significant input from the Resilience Officer (RO) to ensure that CBC participates in local and national exercises and plans. Officers have also been trained to provide administration support to the Essex Resilience Forum, in the event that national plans (primarily focused on a 'no-deal' exit) are activated. In the lead up to the two proposed exit dates, daily situation reports were compiled and senior management participated in regular conference calls. Internally the impacts of the EU exit have been reviewed and this has led to revised plans, such as vehicle usage requirements and staffing.
- 6.2 During the year the RO has been working with services to update and refine their individual plans. The RO's role is to provide advice and guidance about issues that services need to consider and the content of the plan, however it is the service's responsibility to produce the plan. Historically each service area has produced one plan for all of their functions, however this has recently been changed to producing a streamlined plan for each key function, so that plans can easily be moved between services. The RO is currently putting together a review timetable for each service area and reports of completed and outstanding plans will be provided to the First Call Officer group.
- 6.3 Alongside revising service plans training has been provided for officers on both business continuity and emergency planning, there has been a generator test at Rowan House and the severe weather plan has been reviewed. Other service areas have also been working on out of hours security arrangements for Rowan House and out of hours support for IT.
- 6.7 We continue to work collaboratively with the Essex Resilience Forum (ERF) to produce generic plans that can be used across the whole of the County. This year we have produced the Major Accidents Hazards and Pipelines plan, along with reviewing existing plans. Senior officers have also taken part in strategic and tactical training exercises facilitated by the ERF.

7.0 Business Continuity Strategy for 2020

- 7.1 The Business Continuity Strategy was agreed for the first time in 2009. A requirement within the strategy, and also of the regular internal audit assessment, is that it is reviewed annually to ensure that it is still appropriate to the Council's needs.
- 7.2 Therefore a review has been undertaken and the strategy has been updated for 2020. The revised strategy is attached at appendix A. It is considered that the strategy continues to meet the needs of the organisation and therefore there are no changes to the strategy or the business continuity process.

8. Equality, Diversity and Human Rights implications

- 8.1 There are no equality, diversity or Human Rights implications as a result of this report.

9. Strategic Plan References

- 9.1 The ability of the Council to carry on providing critical services, even when dealing with a major disruption, is fundamental to ensuring the achievement of the strategic plan objectives.

10. Risk Management Implications

- 10.1 The failure to adequately manage a business interruption may have an effect on the ability of the Council to achieve its objectives and operate effectively.

11. Other Standard References

- 11.1 There are no particular references to consultation or publicity considerations or financial; community safety or health and safety implications.

Appendices

Appendix A – Business Continuity Strategy for 2020



Business Continuity Strategy 2020

A framework for developing plans to minimise disruption, when unplanned events significantly interrupt normal business.

December 2019

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BUSINESS CONTINUITY STRATEGY 2020

1.0 Introduction

Colchester Borough Council provides a wide range of services to the local community, many of which are statutory functions. Any failure, actual or perceived, to deliver the full range of services will have a negative impact on both the community and the authority. As such, all reasonable measures should be adopted to minimise the likelihood of business or service interruption.

The Civil Contingencies Act 2004 places a specific duty on local authorities to ensure that they have prepared, as far as reasonably practical, to continue to provide critical functions during any disruptive incident.

However the Civil Contingencies Act is just one of the key drivers for business continuity. External assessments, such as the benefits inspection and the Lexcel accreditation, require robust business continuity arrangements to provide assurance that quality services will continue to be provided at all times. But above all, business continuity is critical to the Council in its ability to survive an incident with as little disruption to services and reputation as possible.

This Business Continuity Strategy provides the framework for developing plans that will prevent or mitigate the severity of potential disruptions and enable the Council to effectively respond to incidents.

The plan will identify the mitigation measures, specific recovery objectives, the structure for implementation and the communication process to keep staff, partners and the public informed of necessary changes to service delivery.

2.0 Overview

The strategy adopted for development of the business continuity plans can be summarised as follows:

- The Corporate Incident Management Plan will form the basis of the Council's response. This is an operational document designed to assist the authority in the event of a disruption occurring. The plan sets priorities and communications to ensure an appropriate response to any disruption.
- The Corporate Incident Management Plan is the overall tool for the Council and event controllers. However this is supported by service specific business continuity plans which ensure that each service is able to respond appropriately to an incident whether it is a corporate or service specific interruption.
- Incident specific plans are also developed for corporate issues where the risk indicates sufficient likelihood of occurrence and the impact is seen to be severe, such as pandemics, power failures and technology failure.
- Business Impact Analyses (B.I.A.s) are undertaken to be able to develop the plans. B.I.A.s assess the key risks and key services at both corporate and service level, and their maximum tolerable period of disruption (MTPD), which will help to identify preventative measures that can be undertaken.

3.0 Aim and Objectives

The aim of the strategy is:

- To support the Council in anticipating risks for the purpose of mitigating them and having flexible plans in place, which are already tested, to minimise disruption when unplanned events significantly interrupt normal business.

The objectives are:

- To identify preventative measures that can be carried out to minimise the likelihood of an incident occurring.
- To ensure the Council can continue to exercise its functions in the event of an emergency, ensuring that statutory requirements are maintained.
- To integrate the Business Continuity requirements with the Emergency Planning responsibilities of the Authority to ensure that in the event of a major disruption the Authority can respond appropriately both internally and externally.
- To identify the essential services, in order to determine overall priorities for recovery of functions if disruption takes place.
- To ensure all Council service areas are involved in the preparation of the Plan, so that there is an effective and consistent response to service continuity.
- To provide a basis for cost benefit analysis to determine which contingency plans will be developed.
- To develop a process to review and update the overall Plan and develop service area, functional or specific plans where necessary, in order to protect the services and reputation of the Council.
- To undertake training and awareness programmes for staff, elected members, suppliers and partners.
- To carry out regular tests of the Plan to validate the arrangements.

4.0 The Business Continuity Process

Irrespective of an unusual or disruptive event, occurring internally or externally, the capabilities of the Council to provide its statutory and legal duties, services to the community and income generation must be maintained. This process aims to address the issues likely to arise, and to identify measures to mitigate them.

The Business Continuity process aims to address the issues likely to arise, and potential solutions, grouped in the following three areas:

- MITIGATION - Identify and select proactive measures to reduce likelihood of disruption
- CONTINUITY AND RECOVERY - Maintenance of essential services and set timescales for recovery, returning to normality
- INCIDENT RESPONSE STRUCTURE - Provide a mechanism for responding to an incident

Business Continuity is an on-going cyclical process of risk assessment, management and review with the purpose of ensuring that the business can continue if risks materialise.

The effective implementation of business continuity has 6 stages:

- Policy and Programme Management
- Embedding business continuity
- Analysis
- Design
- Implementation
- Validation

5.0 Responsibility for Business Continuity

To be effective Business Continuity should be fully endorsed and actively promoted by senior management and there should be a clearly defined responsibility for co-ordination of Business Continuity. However it does not belong to one person, or role, and every service has a responsibility for ensuring that they are capable of responding to an interruption.

There are three levels of responsibility for managing the business continuity process:

1. Co-ordinator
2. Corporate Response Team
3. Service Teams

There is a core role of co-ordinating the process and ensuring that services have access to information and assistance when building their own plans. The co-ordinator also has responsibility for ensuring that key partners are involved in the process.

In the event that there is a disruption there should be a defined corporate response team who will have overall control of the situation. The co-ordinator is responsible for maintaining details of this team ensuring that they are fully briefed on executing the plan and are informed of any potential issues that may arise.

There are also individual service action teams who are responsible for ensuring that their service has its own response plan and can manage the continuity and recovery for the functions within that service. The team is likely to consist of one person for the process of defining the response plans and day to day co-ordination of Business Continuity, but will call upon other senior managers if and when the plan needs to be put into practice.

Appendix 1 sets out the roles and responsibilities for Business Continuity at all levels.

6.0 Links

To be an effective management tool and to truly embed the process throughout the organisation the plan should recognise and be influenced by the Council's operational and strategic risk registers, this will lead automatically to the plan linking into the Internal Audit plan, the strategic plan and the budget process. The plan should also recognise the Community Risk Register, maintained by the Essex Resilience Forum, to ensure that external impacts are recognised and allowed for.

The Business Continuity process must also be closely linked to the Emergency Planning process. In any major scenario it is likely that other organisations in the Borough will be effected as well, and it is essential for the Council to be able to respond to their requirements as well as its own. Due to the nature of the response required from Emergency Planning it is likely that they will be the first service to receive external information regarding potential issues and it is imperative that there is a system for incorporating these issues in the Business Continuity process.

The Plan should also be aligned to the International standard for Business Continuity ISO 22301 – 2012 and the BCI 'Good Practice Guidelines 2018'.

7.0 Training

All members of the Corporate Response Team and the Service Teams need to be trained, and exercised, on an annual basis to ensure that they are fully aware of how to implement the plan. All staff should be informed of the process and further training should be available if required. Members should be trained to ensure that they know of the existence of the plan and also how they can assist, politically, in the continuity and recovery process.

8.0 Review Process

The Plan will be reviewed annually to ensure that it is still relevant to the Council's needs. However the individual plans for each service will be subject to review every six months to ensure that information on service functions and contact details are kept up to date. The high risks and priority services will also be re-assessed annually.

Appendix 1

ROLES & RESPONSIBILITIES FOR BUSINESS CONTINUITY

	Strategy And Plan	Defence	Continuity	Recovery
Members	Agreeing the strategy and plan determined by officers.	Endorsing the defence plans and ensuring that political decisions are taken with due regard for Business Continuity.	Political will to ensure that there is a united approach to continuity.	Political will to ensure that there is a united approach to recovery.
Corporate Governance Manager & Resilience Officer	Devising and co-ordinating the strategy and plan.	Ensuring that the defence actions are appropriately implemented, are regularly reviewed and that services have developed own plans.	Co-ordination of the Corporate Response Team and the Service Action Teams. Guidance on the plan and mitigating actions during the incident.	Co-ordination of the Service Action Teams. Guidance on the plan and reporting progress of recovery to senior management.
Senior Management Team	Approval and support of the strategy and plan. Completion of service plans.	Critical review and approval of the defence actions.	Support of the actions of the Corporate Response Team during the incident.	Support the actions of the Service Action Teams, endorse recovery priority for services.
Corporate Response Team (Senior Management Team acting in First Call Officer Capacity)	Overview of strategy and plan. Review of 'new issues'.	Critical review of the defence plans. Ensuring that the information contained within the plan is accurate. Annual testing of the plan.	Control the response to the incident until such time as the organisation enters the recovery stage. Ensuring that priority services are afforded the proper support. Ensuring information is available to members and staff. Keeping SMT informed.	Review the actions of the Service Action Teams. Facilitate full recovery and ensure that recovery follows the correct priority. Liaison with external agencies. Ensuring information is available. Keeping SMT informed.
Service Action Teams	Input into the formulation of the strategy and plan.	Development of defence plans and implementation of control actions. Ensure that checklists of key info are compiled. Identification of service priorities.	Co-ordinate their service's response. Act as a liaison between Corporate Response Team and Service. Respond to Corporate Response teams requests during an incident.	Implement their own team recovery plan whilst maintaining the link with the Corporate Response Team. Briefing staff. Overseeing alternative accommodation.
Employees, contractors and partners	Knowledge of the strategy and plan, and awareness of impact on own job / service.	Knowledge of the defence plans and awareness of impact on own job / service	Assist with the incident where required. Know how to / who to contact in emergency.	Assist with recovery where required. Understand how they fit into the recovery of their service.

26 November 2019

Report of	Assistant Director Policy and Corporate	Author	Paul Cook
Title	Treasury Management Strategy - Mid Year Review Report 2019/20		
Wards affected	Not applicable		

1 Executive Summary

- 1.1 The 2019/20 Treasury Management Strategy Statement (TMSS) was approved by Council on 20 February 2019. This report is a mid-year review of the Council's treasury management.
- 1.2 Complying with CIPFA's Code of Practice on Treasury Management the update includes:
 - an economic update
 - whether key elements of the TMSS and annual investment strategy require changes
 - performance against prudential indicators
 - a review of borrowing strategy
 - highlights areas to be taken into consideration in preparing the 2020/21 TMSS
- 1.3 In addition, this report covers recent changes in the structure of Public Works Loan Board lending rates to local authorities.

2 Recommended Decision

- 2.1 To approve the mid-year review.

3 Reason for Recommended Decision

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

4 Alternative Options

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

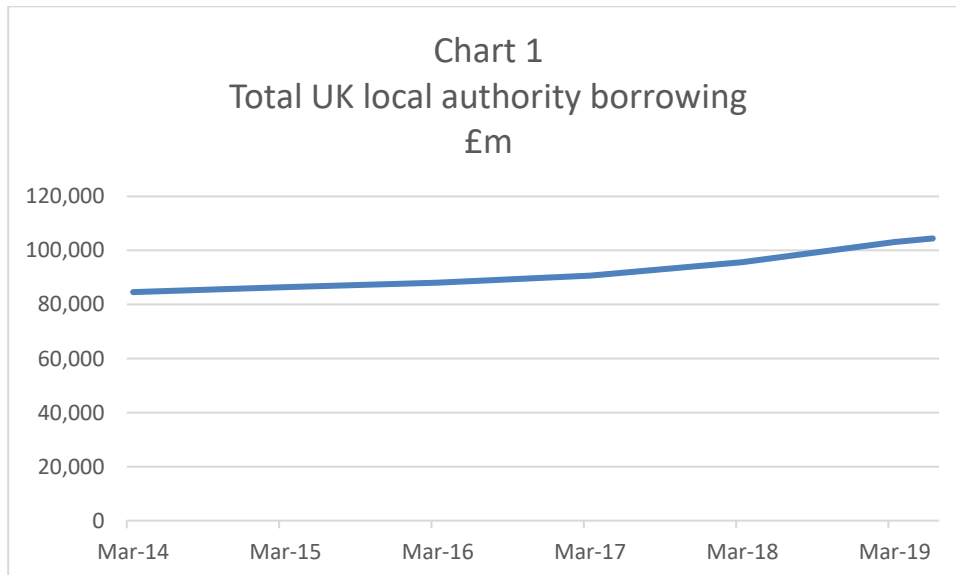
5 Introduction

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

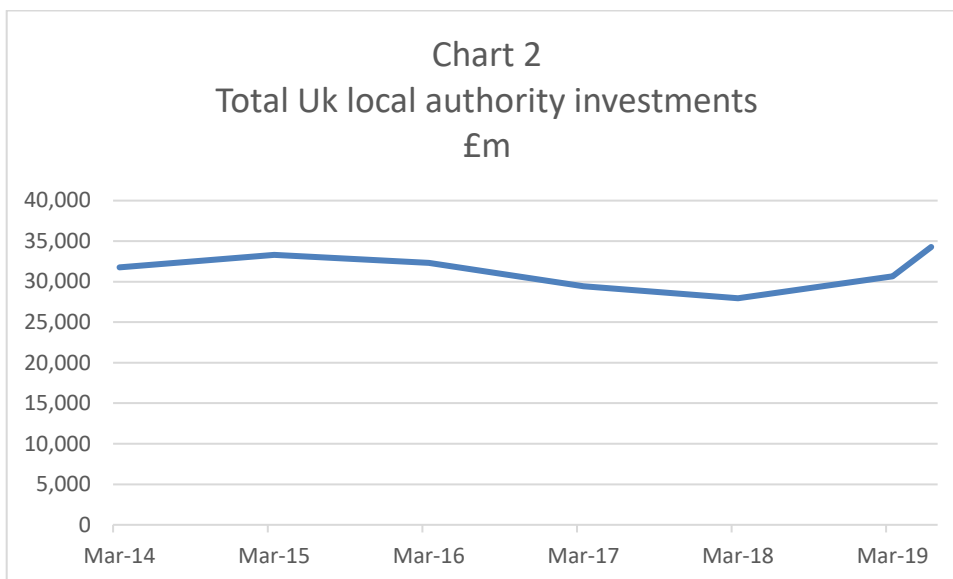
- that the Council's capital plans are fully funded, treasury management practices supporting the requirement for long term cashflow planning and supporting the Council's need to borrow.
 - Local Authorities are required under statute to self-regulate on the affordability, prudence and sustainability of its capital investment plans and borrowing through a process of setting estimates, indicators and the Council's overall risk appetite; and reporting on these on a regular basis.
- 5.3 Treasury Management is defined as 'the management of the Council's borrowing, investments and cash flows, its banking, money market and capital market transactions; the effective control of risks associated with these activities; and the pursuit of optimum performance consistent with those risks.'
- 5.4 The management of the Council's treasury management processes is supported by Treasury Management Practices and the Council employs Link Asset Services to provide specialist consultancy in respect of treasury management, especially with regards to investments and debt, as well as capital accounting arrangements and asset finance.
- 5.6 In line with statutory requirements the Council has adopted the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management (revised 2017). This mid-year position report complies with the Code.

6 Economic Update

- 6.1 Local authority borrowing has gradually increased over the last few financial years. This reflects the funding of local authority capital programmes.



- 6.2 Over the same period there has been more variability in total investments.



- 6.3 There has been a considerable rise in the use of money market funds and other managed funds reflecting the low rates on offer from banks directly to local authorities. The table shows Colchester's comparative position at June 2019. It would appear appropriate for Colchester to examine the potential to invest in other managed funds and proposals will form part of the 2020/21 TMSS proposals brought forward to Cabinet.

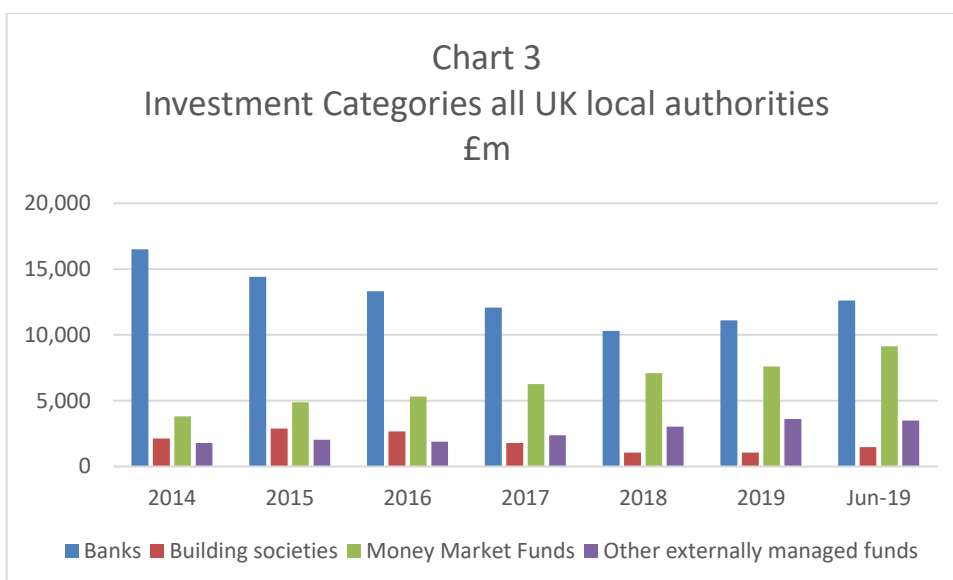


Table 1 – Investment distribution 30 June 2019		UK local authorities	Colchester
1	Bank	29%	52%
2	Building society	3%	6%
3	Money market funds	21%	36%
4	Externally managed funds	8%	Nil
5	Local government	22%	6%
6	Other	17%	Nil
7	Total	100%	100%

- 6.4 The economic forecast remains difficult with numerous external influences impacting on the UK economy. A recent update provided by the Council's Treasury advisors concludes the following over the next few years based on a level risk analysis:
- moderate levels of growth of 1.4% for 2019, increasing to 1.5% in 2020;

- inflation has decreased to 1.7% in August 2019, but is expected to remain close to the government target of 2%;
- unemployment continues at a 44 year low of 3.8%, with indications that employers are finding it difficult to recruit suitable staff; which could lead to wage inflation and a potential spur in increased household spending.
- the bank rate currently stands at 0.75% and is expected to hold off on changes until there is some clarity on what is going to happen over Brexit.
 - Next month's general election could result in a loosening of monetary policy, expectations of a weak pound and an inflationary pick up; and
 - the world economic outlook continues to dampen growth.

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

7 Treasury Management Strategy 2019/20

7.1 The TMSS includes the following key elements:

- The Council continues to maintain an under-borrowed position. It will borrow internally, reducing the cost of carry as current investment rates are substantially below long term borrowing rates. This also reduces the Council's exposure to credit risk by reducing the level of investment balances.
- The Council's investment policy reflects a low appetite for risk; emphasising the priorities of security and liquidity over yield.
- The budgeted return on investments placed for periods up to 100 days is 0.7%.
- That the Council complies with the CIPFA Prudential and Treasury Management Codes (Revised 2017); in relation to setting of capital plans, setting and reporting on prudential indicators, evaluation of the General Fund MRP and other related governance guidance.

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

8 The Council's Capital Position and Prudential Indicators

8.1 This part of the report updates:

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

Capital Expenditure

8.2 The table below identifies the revised 2019/20 capital programme forecast since the original capital budget was approved by Council in February 2019. A review of the capital programme was reported to Scrutiny Panel on 12 November 2019.

Table 3 Capital Expenditure 2019/20 £k	Original Estimate	Spend to Sep 2019	Revised Estimate
General Fund capital expenditure	58,684	14,236	44,457
HRA capital expenditure	26,118	4,072	18,868
Total capital expenditure	84,802	18,308	63,325

Changes to the financing of the capital programme

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

	Table 4 - New Borrowing Requirement 2019/20 All £k	Original Estimate	Sep 2019	Revised Estimate
1	General Fund capital expenditure	58,684	14,236	44,457
2	HRA capital expenditure	26,118	4,072	18,868
3	Total capital expenditure	84,802	18,308	63,325
	Resourced by:			
4	Capital receipts	11,053	1,262	4,425
5	Capital grants	14,291	1,798	11,359
6	Capital reserves	12,416	867	9,972
7	Finance leases	0	0	0
8	Revenue	2,449	1,651	2,449
9	New borrowing requirement	44,593	12,730	35,120

Capital Financing Requirement (CFR)

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

Table 5 - CFR 2019/20 All £k	Original Estimate	Current Position	Revised Estimate
Opening balance	167,730	154,189	154,189
Unfinanced capital expenditure (as above)	44,593	12,730	35,120
Less MRP/VRP	1,990	1,990	1,990
Closing balance	210,333	164,929	187,319

Limits to borrowing activity

- 8.5 Councils' have a responsibility to ensure that over the medium-term net borrowing is only be for capital purposes. Gross external debt should not - except in the short term - exceed the CFR in the preceding year plus any additional CFR for the current and the next two financial years. This allows flexibility for limited early borrowing for future years. The Council has approved a policy for borrowing in advance of need which will be adhered to if this proves prudent.

Table 6 - Limits to Borrowing activity 2019/20 All £k	Original Estimate	Current Position	Revised Estimate
Gross Debt 1 April 2019	158,194	143,598	143,598
Borrowing 2019/20	44,583	12,730	14,011
Other Long Term Liabilities	217	217	217
Gross Debt 31 March	202,994	156,545	157,826
CFR	210,323	164,929	187,319
Under/(Over) Borrowed Position	7,329	8,384	29,493

- 8.6 The Council is expected to be in an under borrowed position compared to its CFR at the end of 2019/20. This is in line with the Treasury Management Strategy. The Council can demonstrate that its borrowing is for capital investment purposes.

- 8.7 The Operational Boundary is the limit against which external debt is not normally expected to exceed.

Table 7 – Operational Boundary All £k	Original Estimate	Current Position	Revised Estimate
Operational Boundary	206,415	164,929	206,415

9 Investment Portfolio 2019/20

- 9.1 In accordance with the Prudential Code, the Council is required to ensure that the security and liquidity of its investments take priority over the level of return. As detailed at paragraph 5, it is a very difficult investment market in terms of returns
- 9.2 The Council had £62.4m of investments as at 30th September 2019 (£59.2m as at 31 September 2018).
- 9.3 A full list of investments is listed at Appendix B (confidential section of the Agenda).
- 9.4 The Head of Finance confirms that the approved limits within the Annual Investment Strategy were not breached during the first six months of the year.

10 Borrowing

- 10.1 The Council is forecast to have borrowings of £157,826m at the end of the financial year, with the expectation of utilising £29,493m of cash flow funds in lieu of borrowing to fund the capital programme. This is prudent and cost effective approach in the current economic climate and interest rate structure.
- 10.2 As detailed above further borrowing of £14m is planned during this financial year. This level of borrowing is dependent on the timing of capital projects. It remains possible that the Council may borrow less than this in this financial year.
- 10.3 Following previous requests by the Committee and the Scrutiny Panel some comparative information is available on interest rates and borrowing structure. This is set out below.
- 10.4 The rates paid are largely determined by past decisions. Some authorities have a significant proportion of short term debt enabling them to benefit from current low interest rates. The Colchester debt was substantially acquired in the self-financing housing settlement and therefore this option has not been available. The risk of carrying short term borrowing is the challenge of converting successfully to long term in the event of abrupt major changes in interest rates.

Table 8 – Borrowing actuals 2018/19 for some CIPFA Group members with debt outstanding	Debt 31.3.19	% long	% Short	Avg rate
Basildon	239			4.5
Braintree	6			4.7
Canterbury	216	82	18	2.6
Cherwell	111	39	61	1.5
Colchester	141	100	0	4.5
South Kesteven	99	72	28	2.4

11 PWLB interest rate structure

- 11.1 On 9 October 2019 HM Treasury raised the PWLB rate by increasing the margin over gilts to 100bps (one percentage point) “to better reflect the availability of capital finance”. Despite this change PWLB rates remain as a low level.
- 11.2 The reason for this increase is understood to be a general concern over the amount of borrowing local authorities have or will be taken on with the change in rates used to stem the amount of borrowing. For a 50-year loan, the interest rate has now increased to nearly 3%. This change has no impact to existing loans the council currently holds.
- 11.3 Alternative borrowing sources to PWLB will continue to be assessed.

12. Standard References

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

13. Financial implications

- 12.1 As set out in the body of this report.

13. Risk Management Implications

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

Appendices

Appendix A – Economic Update from Link Asset Services

Appendix B – Confidential paper

Background Papers

Basildon Council Audit and Risk Committee 26.6.19

Braintree DC Corporate Governance Group 25.7.19

Canterbury Council Audit Committee 25.7.19

Cherwell DC Accounts Audit and Risk Committee 31.7.19

South Kesteven Governance and Audit Committee 26.7.19

Appendix A

Economics and interest rates - Link Asset Services Advice

Economics update

UK. This first half year has been a time of upheaval on the political front as Theresa May resigned as Prime Minister to be replaced by Boris Johnson on a platform of the UK leaving the EU on or 31 October, with or without a deal. However, in September, his proroguing of Parliament was overturned by the Supreme Court and Parliament carried a bill to delay Brexit until 31 January 2020 if there is no deal by 31 October. MPs also voted down holding a general election before 31 October, though one is likely before the end of 2019. So far, there has been no majority of MPs for any one option to move forward on enabling Brexit to be implemented. At the time of writing, (first week in October), the whole Brexit situation is highly fluid and could change radically by the day. Given these circumstances and the likelihood of an imminent general election, any interest rate forecasts are subject to material change as the situation evolves. If the UK does soon achieve a deal on Brexit agreed with the EU, including some additional clarification wording on the Irish border backstop, then it is possible that growth could recover relatively quickly. The MPC could then need to address the issue of whether to raise Bank Rate when there is very little slack left in the labour market; this could cause wage inflation to accelerate which would then feed through into general inflation. On the other hand, if there was a no deal Brexit and there was a significant level of disruption to the economy, then growth could weaken even further than currently and the MPC would be likely to cut Bank Rate in order to support growth. However, with Bank Rate still only at 0.75%, it has relatively little room to make a big impact and the MPC would probably suggest that it would be up to the Chancellor to provide help to support growth by way of a fiscal boost by e.g. tax cuts, increases in government departments and services annual expenditure budgets and expenditure on infrastructure projects, to boost the economy.

The first half of 2019/20 has seen UK **economic growth** fall as Brexit uncertainty took a toll. In its Inflation Report of 1 August, the Bank of England was notably downbeat about the outlook for both the UK and major world economies. The MPC meeting of 19 September reemphasised their concern about the downturn in world growth and also expressed concern that the prolonged Brexit uncertainty would contribute to a build-up of spare capacity in the UK economy, especially in the context of a downturn in world growth. This mirrored investor concerns around the world which are now expecting a significant downturn or possibly even a recession in some major developed economies. It was therefore no surprise that the Monetary Policy Committee (MPC) left Bank Rate unchanged at 0.75% throughout 2019, so far, and is expected to hold off on changes until there is some clarity on what is going to happen over Brexit. However, it is also worth noting that the new Prime Minister is making some significant promises on various spending commitments and a relaxation in the austerity programme. This will provide some support to the economy and, conversely, take some pressure off the MPC to cut Bank Rate to support growth.

As for **inflation** itself, CPI has been hovering around the Bank of England's target of 2% during 2019, but fell to 1.7% in August. It is likely to remain close to 2% over the next two years and so it does not pose any immediate concern to the MPC at the current time. However, if there was a no deal Brexit, inflation could rise towards 4%, primarily as a result of imported inflation on the back of a weakening pound.

With regard to the **labour market**, despite the contraction in quarterly GDP growth of -0.2%q/q, (+1.3% y/y), in quarter 2, employment continued to rise, but at only a muted rate of 31,000 in the three months to July after having risen by no less than 115,000 in quarter 2 itself: the latter figure, in particular, suggests that firms are preparing to expand output and suggests there could be a return to positive growth in quarter 3. Unemployment continued at a 44 year low of 3.8% on the Independent

Labour Organisation measure in July and the participation rate of 76.1% achieved a new all-time high. Job vacancies fell for a seventh consecutive month after having previously hit record levels. However, with unemployment continuing to fall, this month by 11,000, employers will still be having difficulty filling job vacancies with suitable staff. It was therefore unsurprising that wage inflation picked up to a high point of 3.9% in June before easing back slightly to 3.8% in July, (3 month average regular pay, excluding bonuses). This meant that in real terms, (i.e. wage rates higher than CPI inflation), earnings grew by about 2.1%. As the UK economy is very much services sector driven, an increase in household spending power is likely to feed through into providing some support to the overall rate of economic growth in the coming months. The latest GDP statistics also included a revision of the savings ratio from 4.1% to 6.4% which provides reassurance that consumers' balance sheets are not over stretched and so will be able to support growth going forward. This would then mean that the MPC will need to consider carefully at what point to take action to raise Bank Rate if there is an agreed Brexit deal, as the recent pick-up in wage costs is consistent with a rise in core services inflation to more than 4% in 2020.

In the **political arena**, if there is a general election soon, this could result in a potential loosening of monetary policy and therefore medium to longer dated gilt yields could rise on the expectation of a weak pound and concerns around inflation picking up although, conversely, a weak international backdrop could provide further support for low yielding government bonds and gilts.

USA. President Trump's massive easing of fiscal policy in 2018 fuelled a temporary boost in consumption in that year which generated an upturn in the rate of strong growth to 2.9% y/y. Growth in 2019 has been falling back after a strong start in quarter 1 at 3.1%, (annualised rate), to 2.0% in quarter 2. Quarter 3 is expected to fall further. The strong growth in employment numbers during 2018 has reversed into a falling trend during 2019, indicating that the economy is cooling, while inflationary pressures are also weakening. The Fed finished its series of increases in rates to 2.25 – 2.50% in December 2018. In July 2019, it cut rates by 0.25% as a 'midterm adjustment' but flagged up that this was not to be seen as the start of a series of cuts to ward off a downturn in growth. It also ended its programme of quantitative tightening in August, (reducing its holdings of treasuries etc). It then cut rates again in September to 1.75% - 2.00% and is thought likely to cut another 25 bps in December. Investor confidence has been badly rattled by the progressive ramping up of increases in tariffs President Trump has made on Chinese imports and China has responded with increases in tariffs on American imports. This trade war is seen as depressing US, Chinese and world growth. In the EU, it is also particularly impacting Germany as exports of goods and services are equivalent to 46% of total GDP. It will also impact developing countries dependent on exporting commodities to China.

EUROZONE. Growth has been slowing from +1.8 % during 2018 to around half of that in 2019. Growth was +0.4% q/q (+1.2% y/y) in quarter 1 and then fell to +0.2% q/q (+1.0% y/y) in quarter 2; there appears to be little upside potential to the growth rate in the rest of 2019. German GDP growth fell to -0.1% in quarter 2; industrial production was down 4% y/y in June with car production down 10% y/y. Germany would be particularly vulnerable to a no deal Brexit depressing exports further and if President Trump imposes tariffs on EU produced cars.

Interest rate forecasts

The Council's treasury advisor, Link Asset Services, has provided the following forecast:

Link Asset Services Interest Rate View											
	Sep-19	Dec-19	Mar-20	Jun-20	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22
Bank Rate View	0.75	0.75	0.75	0.75	0.75	1.00	1.00	1.00	1.00	1.00	1.25
3 Month LIBID	0.70	0.70	0.70	0.70	0.80	0.90	1.00	1.00	1.00	1.10	1.20
6 Month LIBID	0.80	0.80	0.80	0.80	0.90	1.00	1.10	1.10	1.20	1.30	1.40
12 Month LIBID	1.00	1.00	1.00	1.00	1.10	1.20	1.30	1.30	1.40	1.50	1.60
5yr PWLB Rate	2.20	2.30	2.50	2.60	2.70	2.70	2.80	2.90	3.00	3.00	3.10
10yr PWLB Rate	2.50	2.60	2.80	2.90	3.00	3.00	3.10	3.20	3.30	3.30	3.40
25yr PWLB Rate	3.10	3.30	3.40	3.50	3.60	3.70	3.70	3.80	3.90	4.00	4.00
50yr PWLB Rate	3.00	3.20	3.30	3.40	3.50	3.60	3.60	3.70	3.80	3.90	3.90

The above forecasts have been based on an assumption that there is some sort of muddle through to an agreed deal on Brexit at some point in time. Given the current level of uncertainties, this is a huge assumption and so forecasts may need to be materially reassessed in the light of events over the next few weeks or months.

It has been little surprise that the Monetary Policy Committee (MPC) has left Bank Rate unchanged at 0.75% so far in 2019 due to the ongoing uncertainty over Brexit. In its meeting on 1 August, the MPC became more dovish as it was more concerned about the outlook for both the global and domestic economies. That's shown in the policy statement, based on an assumption that there is an agreed deal on Brexit, where the suggestion that rates would need to rise at a "gradual pace and to a limited extent" is now also conditional on "some recovery in global growth". Brexit uncertainty has had a dampening effect on UK GDP growth in 2019, especially around mid-year. If there were a no deal Brexit, then it is likely that there will be a cut or cuts in Bank Rate to help support economic growth. The September MPC meeting sounded even more concern about world growth and the effect that prolonged Brexit uncertainty is likely to have on growth.

The balance of risks to the UK

- The overall balance of risks to economic growth in the UK is probably to the downside due to the weight of all the uncertainties over Brexit, as well as a softening global economic picture.
- The balance of risks to increases in Bank Rate and shorter term PWLB rates are broadly similarly to the downside.

One risk that is both an upside and downside risk is that all central banks are now working in very different economic conditions than before the 2008 financial crash. There has been a major increase in consumer and other debt due to the exceptionally low levels of borrowing rates that have prevailed for eleven years since 2008. This means that the neutral rate of interest in an economy, (i.e. the rate that is neither expansionary nor deflationary), is difficult to determine definitively in this new environment, although central banks have made statements that they expect it to be much lower than before 2008. Central banks could, therefore, over or under-do increases in central interest rates.

Downside risks to current forecasts for UK gilt yields and PWLB rates currently include:

- **Brexit** – if it were to cause significant economic disruption and a major downturn in the rate of growth.
- **Bank of England** takes action too quickly, or too far, over the next three years to raise Bank Rate and causes UK economic growth, and increases in inflation, to be weaker than we currently anticipate.
- A resurgence of the **Eurozone sovereign debt crisis**. In 2018, Italy was a major concern due to having a populist coalition government which made a lot of anti-austerity and anti-EU noise. However, in September 2019 there was a major change in the coalition governing Italy which has brought to power a much more EU friendly government; this has eased the pressure on Italian bonds. Only time will tell whether this new unlikely alliance of two very different parties will endure.
- Weak capitalisation of some **European banks**, particularly Italian banks.
- **German minority government**. In the German general election of September 2017, Angela Merkel's CDU party was left in a vulnerable minority position dependent on the fractious support of the SPD party, as a result of the rise in popularity of the anti-immigration AfD party. Then in October 2018, the results of the Bavarian and Hesse state elections radically undermined the SPD party and showed a sharp fall in support for the CDU. As a result, the SPD had a major internal debate as to whether it could continue to support a coalition that is so damaging to its electoral popularity. After the result of the Hesse state election, Angela Merkel announced that she would not stand for re-election as CDU party leader at her party's

convention in December 2018. However, this makes little practical difference as she has continued as Chancellor, though more recently concerns have arisen over her health.

- **Other minority EU governments.** Austria, Sweden, Spain, Portugal, Netherlands and Belgium all have vulnerable minority governments dependent on coalitions which could prove fragile.
- **Italy, Austria, the Czech Republic and Hungary** now form a strongly anti-immigration bloc within the EU. There has also been rising anti-immigration sentiment in Germany and France.
- There are concerns around the level of **US corporate debt** which has swollen massively during the period of low borrowing rates in order to finance mergers and acquisitions. This has resulted in the debt of many large corporations being downgraded to a BBB credit rating, close to junk status. Indeed, 48% of total investment grade corporate debt is rated at BBB. If such corporations fail to generate profits and cash flow to reduce their debt levels as expected, this could tip their debt into junk ratings which will increase their cost of financing and further negatively impact profits and cash flow.
- **Geopolitical risks**, for example in North Korea, but also in Europe and the Middle East, which could lead to increasing safe haven flows.

Upside risks to current forecasts for UK gilt yields and PWLB rates

- **Brexit** – if agreement was reached all round that removed all threats of economic and political disruption between the EU and the UK.
- The **Bank of England is too slow** in its pace and strength of increases in Bank Rate and, therefore, allows inflationary pressures to build up too strongly within the UK economy, which then necessitates a later rapid series of increases in Bank Rate faster than we currently expect.
- **UK inflation**, whether domestically generated or imported, returning to sustained significantly higher levels causing an increase in the inflation premium inherent to gilt yields.
-

Governance and Audit Committee

Item
16

26 November 2019

Report of	Assistant Director of Policy and Corporate	Author	Richard Clifford ☎ 507832
Title	Work Programme 2019-20		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This report sets out the current Work Programme 2019-2020 for the Governance and Audit Committee. This provides details of the reports that are scheduled for each meeting during the municipal year.

2. Recommended Decision

- 2.1 The Committee is asked to note the contents of the Committee's Work Programme for 2019-20.

3. Alternative Options

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

4. Background Information

- 4.1 The Governance and Audit Committee deals with the approval of the Council's Statement of Accounts, audit, other miscellaneous regulatory matters and standards.
- 4.2 The Committee's work programme will evolve as the Municipal Year progresses and items of business are commenced and concluded. At each meeting the opportunity is taken for the work programme to be reviewed and, if necessary, amended according to current circumstances.

5. Standard References

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

6. Strategic Plan References

- 6.1 Governance is integral to the delivery of the Strategic Plan's priorities and direction for the Borough as set out under the four themes of growth, responsibility, opportunity and wellbeing.
- 6.2 The Council recognises that effective local government relies on establishing and maintaining the public's confidence, and that setting high standards of self-governance provides a clear and demonstrable lead. Effective governance underpins the implementation and application of all aspects of the Council's work.

WORK PROGRAMME 2019-20

Governance and Audit Committee
Meeting date / Agenda items -
Governance and Audit Committee - 25 June 2019 <u>Reports to be received by 14 June 2019</u>
Governance and Audit Committee briefing – 18 June 2019 6.30pm
<ol style="list-style-type: none"> 1. Draft Annual Statement of Accounts 2018/19 2. Year End Internal Audit Assurance Report 2018/19 3. Review of the Governance Framework and Draft Annual Governance Statement 4. Committee on Standards in Public Life Consultation on Local Government Ethical Standards Response 5. Polling District and Polling Place Review 6. CCHL – Annual report
Governance and Audit Committee - 30 July 2019 <u>Reports to be received by 19 July 2019</u>
Governance and Audit Committee briefing – 23 July 2019 6pm followed by Statement of Accounts training and Code of Conduct refresher session
<ol style="list-style-type: none"> 1. Audited Statement of Accounts 2018/19 and Annual Audit letter 2. 2018/19 Year End Review of Risk Management
Governance and Audit Committee - 3 September 2019 <u>Reports to be received by 23 August 2019</u>
Governance and Audit Committee briefing – 27 August 2019 6pm
<ol style="list-style-type: none"> 1. Colchester Borough Homes Annual Report and Governance Statement 2. Financial Monitoring Report – April to June 2019 3. Capital Expenditure Monitor 2019/20 4. Treasury Management 18/19 Report

5. Polling District and Polling Place Review
Governance and Audit Committee - 29 October 2019 <u>Reports to be received by 16 October 2019</u>
Governance and Audit Committee briefing – 21 October 2019 6pm
<ol style="list-style-type: none"> 1. Local Government and Social Care Ombudsman Annual Review 2018/19 2. Health and Safety Policy and Annual Report 3. Equality and Safeguarding Annual Update 4. Annual Audit Letter 2018/19
Governance and Audit Committee – 26 November 2019 <u>Reports to be received by 15 November</u>
Governance and Audit Committee Briefing – 19 November 2019 6pm
<ol style="list-style-type: none"> 1. Review of the Council's Ethical Governance Policies 2. Annual Review of the Members' Code of Conduct and the Council's Localism Act "Arrangements" 3. Review of Local Code of Corporate Governance 4. Review of Member/Officer Protocol 5. Gifts and Hospitality – Review of Guidance for Councillors and Policy for Employees 6. Treasury Management – Half Yearly Update 7. Annual Review of Business Continuity
Governance and Audit Committee - 21 January 2020 <u>Reports to be received by 10 January 2020</u>
Governance and Audit Committee briefing – 14 January 2020 6pm
<ol style="list-style-type: none"> 1. Certification of Claims and Returns – Annual Report 2018/19 2. Interim Review of the Annual Governance Statement Action Plan 3. Risk Management Progress Report 4. Mid-Year Internal Audit Assurance Report 2019/20 5. CCHL Half-Year Performance Report 6. Annual Review of the Council's Companies' Business Plans
Governance and Audit Committee - 10 March 2020 <u>Reports to be received by 28 February 2020</u>

Governance and Audit Committee briefing – 3 March 2020 6pm
<ol style="list-style-type: none">1. External Audit Plan for year ending 31 March 20202. Financial Monitoring Report3. Capital Expenditure Monitor 2019/204. Internal Audit Plan 2020/215. Review of Meetings and Ways of Working Update