

# **Finance & Audit Scrutiny Panel**

Town Hall, Colchester

2 September 2008 at 6:00pm

**The Finance and Audit Scrutiny Panel deals with** the review of service areas and associated budgets, and monitors the financial performance of the Council, and the operational performance of the Council. The panel scrutinises the Council's audit arrangements, including the annual audit letter and audit plans, and Portfolio Holder 'Service' decisions reviewed under the Call in procedure.

# 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, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at [www.colchester.gov.uk](http://www.colchester.gov.uk) or from Democratic Services.

## Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please pick up the leaflet called "Have Your Say" at Council offices and at [www.colchester.gov.uk](http://www.colchester.gov.uk).

## Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

## Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off before the meeting begins and note that photography or audio recording is not permitted.

## Access

There is wheelchair access to the Town Hall from West Stockwell Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call, and we will try to provide a reading service, translation or other formats you may need.

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# Terms of Reference

## Finance and Audit Scrutiny Panel

- To review all existing service plans and associated budget provisions against options for alternative levels of service provision and the corporate policies of the Council, and make recommendations to the Cabinet
- To have an overview of the Council's internal and external audit arrangements and in particular with regard to the annual audit plan, the audit work programme and progress reports, and to make recommendations to the Cabinet
- To monitor the operational and financial performance of the Council, and to make recommendations to the Cabinet in relation to operational performance, financial outturns, revenue and capital expenditure monitors
- To scrutinise the Audit Commission's annual audit letter
- To scrutinise progress made on best value action plans
- To scrutinise executive 'service' decisions made by Portfolio Holders and officers taking key decisions which have been made but not implemented referred to the Panel through the call-in procedure

*The panel may a) confirm the decision, which may then be implemented immediately, b) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or c) refer the matter to full Council in the event that the Panel considers the decision to be contrary to the Policy Framework of the Council or contrary to, or not wholly in accordance with the Budget.*

**COLCHESTER BOROUGH COUNCIL  
FINANCE & AUDIT SCRUTINY PANEL  
2 September 2008 at 6:00pm**

**Members**

Chairman : Councillor Lissimore.  
Deputy Chairman : Councillor Willetts.  
Councillors Bentley, Bouckley, Goss, Harris, Maclean,  
Manning, Offen, Oxford and Sykes.

**Substitute Members** : All members of the Council who are not Cabinet members or members of this Panel.

**Agenda - Part A**

(open to the public including the media)

**Members of the public may wish to note that Agenda items 1 to 5 are normally brief and items 6 to 9 are standard items for which there may be no business to consider.**

**Pages**

**1. Welcome and Announcements**

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched to off or to silent;
- location of toilets;
- introduction of members of the meeting.

**2. Substitutions**

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

**3. Urgent Items**

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the

urgency.

#### **4. Declarations of Interest**

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

#### **5. Minutes**

**1 - 7**

To confirm as a correct record the minutes of the meeting held on 19 August 2008.

#### **6. Have Your Say!**

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

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter not on this agenda.

## **7. Items requested by members of the Panel and other Members**

(a) To evaluate requests by members of the Panel for an item relevant to the Panel's functions to be considered.

(b) To evaluate requests by other members of the Council for an item relevant to the Panel's functions to be considered.

## **8. Decisions taken under special urgency provisions**

To consider any Portfolio Holder decisions taken under the special urgency provisions.

## **9. Exclusion of the public**

In accordance with Section 100A(4) of the Local Government Act 1972 and in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) 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).

**COLCHESTER BOROUGH COUNCIL  
FINANCE & AUDIT SCRUTINY PANEL  
2 September 2008 at 6:00pm**

**Agenda - Part B**  
(not open to the public or the press)

	<b>Pages</b>
<b>10. Mediation settlement - Decent Homes Programme</b>	<b>8 - 20</b>

**The following report contains exempt information (financial/business affairs of a particular person, including the authority holding information) as defined in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.**

Report from Anthony Collins Solicitors LLP.

Background paper - The Decent Homes Programme - contractual responsibilities.

This paper, given to the Panel members during the end of the 2007-08 Municipal Year, is given to the current members of the panel for reference purposes only. The paper sets out the contractual responsibilities for the Decent Homes Programme and will help the panel in their deliberations of the main report on the mediation settlement.





## **FINANCE & AUDIT SCRUTINY PANEL 19 AUGUST 2008**

*Present :-* Councillor Sue Lissimore (Chairman)  
Councillors Kevin Bentley, John Bouckley, Martin Goss,  
Dave Harris, Jackie Maclean, Nigel Offen,  
Gerard Oxford, Laura Sykes and Dennis Willetts

*Substitute Member :-* Councillor Jon Hall for Councillor Jon Manning

### **16. Minutes**

The minutes of the meeting held on 29 July 2008 were confirmed as a correct record.

### **17. Have Your Say!**

Mr. Chilvers addressed the panel in regards to the mediation settlement process of the Decent Homes Programme, asking why it was necessary to keep details of this settlement confidential. Mr. Chilvers said that in view of the comments by Councillor Smith, Portfolio Holder for Resources and Business, that contract records were not very well kept, why was it that these problems did not come to light earlier. In view of the poor monitoring of what was a large expensive contract, Mr. Chilvers believed local people were entitled to a public scrutiny meeting to discuss what went wrong and why, with all contract parties present.

In response to Councillor Willetts, Mr. Chilvers said he did not know what the brief was for Colchester Borough Homes in respect of this contract, but was given the impression that they were monitoring the details of the contract, being overseen by Colchester Borough Council.

Mr. Hamilton addressed the panel in regards to Firstsite Newsite the new visual arts facility. Mr. Hamilton believed there was no provision in the Council's accounts for liabilities that could accrue with this project, and which could be as high as £6,000,000. Mr. Hamilton said he believed the construction costs to be £1,000,000 per month before the construction ceased in January, and given the plight of this project, felt it was unprofessional for auditors to confirm completion of the project in 2008. With understated insurance and staff costs, Mr Hamilton felt that unless the 2007-08 accounts were changed he would request that the auditors were brought to account.

### **18. Referred items under the Call in Procedure**

The service decision, reference STS-001-08, Dedham Amenities taken by the Portfolio Holder for Street and Waste Services on the 1 August 2008, was called in by Councillor Christopher Garnett, supported by four Councillors.

### **Have Your Say**

Mr. Buston, former Councillor and Portfolio Holder for Street Services addressed the panel saying that he was disappointed that his May decision had been reversed. Mr. Buston said the provision of adequate public conveniences in Dedham were crucial to visitors to the village and local residents. Visitors parking at the Mill Road car park, will on arrival and with no toilet provision take to the nearby bushes to relieve themselves. This was not an acceptable situation in regards to health and safety, and was exacerbated by the fact that the only other public convenience at Duchy Field, was half a mile away.

In response to Councillor Willetts, Mr. Buston said it was difficult to quantify the effect of poor public convenience facilities on visitor numbers, but added that when visiting Flatford Mill, this site had a large public car park with an adjacent purpose built public convenience.

### **Call in – Dedham Amenities (STS-001-08)**

Councillor Garnett presented the case for the call in, the reasons given being;

- i) Duchy Field toilets are unable to cope with visitors, estimated at 60,000 per annum. These toilets are adequate for using the play areas and sports field. A new toilet would reduce the coach traffic using the High Street for the toilet amenity, thus removing a major traffic hazard.
- ii) There has been no consultation with the Council's partners Dedham Parish Council and the Dedham Vale and Stour Valley Partnership on the impact of reversing the decision to provide capital funding taken on 8th May 2008.
- iii) The proposed decision lacks transparency because it relies upon the ranking given to supporting tourism and public health within the new Administration's priorities. These priorities are unknown because they have yet to be published and will require debate and formal adoption before they can be used to justify any portfolio holder decision.
- iv) The portfolio holder has sought to reallocate an unspecified sum from an £800k capital investment in public conveniences an unspecified sum into other unspecified spending programmes. The original investment was authorised by full Council on the recommendation of Cabinet. Power to make this reallocation has not been delegated to the portfolio holder who has therefore sought to act beyond his powers. Furthermore, the failure to identify the sum involved and the destination programmes will make tracking expenditure against budgets in those areas impossible.

Councillor Garnett expanded on the reasons for the call in saying that at present there were temporary toilets at the Mill Road car park, funded by the Revenue Account, but only until the end of this financial year. Councillor Garnett said in a year's time Dedham could find themselves without a toilet facility at the car park with only the Duchy Field toilet available to Visitors, a half a mile walk from the car park. It was pointed out that the current Duchy Field toilets were not DDA compliant and did not have baby changing facilities.

Councillor Garnett with the help of information supplied by the East of England Tourist Board said there had been in 2007-08, 58,837 vehicles using the Mill Road Car Park, representing an estimated 133,798 visitors, and already in 2008-09 over 21,000 vehicles. It is estimated that tourism in the Dedham Vale Area of Natural Beauty brings

£39,770,000 to the local area, with a significant part of this coming to the Colchester Borough. Councillor Garnett said that by not providing a new build toilet at the Mill Road car park will severely disadvantage visitors, and requested the panel to ask the Portfolio Holder to reinstate this project into the capital programme.

In response to Councillor Bentley, Councillor Garnett said the estimate figures mentioned were from a reliable source, the East of England Tourist Board.

In response to Councillor Harris, Councillor Garnett said traffic congestion in the Dedham High Street at busy times was considerable causing major disruption, and it was not appropriate for an ancient village high street to cope with coaches and lorries.

In response to Councillor Willetts, Councillor Garnett reiterated that whilst paragraph 2.1 of the report on Dedham Amenities stated 'there is currently no survey or usage statistical evidence other than public opinion', the quantitative information mentioned was from a reliable source, the East of England Tourist Board.

In response to Councillor Goss, Councillor Garnett said he had personally witnessed visitors at the car park relieving themselves in the nearby bushes.

Councillor Tim Young, Portfolio Holder for Street and Waste Services addressed the panel, saying he was a regular visitor to Dedham and subsequently used the Duchy Field toilets that whilst good, were in need of refurbishment. Councillor Young said the toilet strategy had been in place for many years, with currently eighteen public conveniences in the borough, mainly sited in areas that attract high tourism, plus two temporary toilets at Dedham and the Sheepen Road Car Park. During the time of this strategy, public conveniences at Butt Road, Shrub End Road, East Bay and Colne Bank Avenue have been closed, and the Greenstead and Prettygate library toilets decommissioned. Only one new toilet had been built, the Uri lift in Colchester Town Centre. Councillor Young said new build toilets have never featured in the Council's toilet strategy, and the decision to progress with a capital new build toilet at Dedham was taken on the 28 April 2008, with the call in period over the final days leading up to the May election. As the new Portfolio Holder, he had decided to reverse this earlier decision.

With regard to the current toilet facilities, Councillor Young said they had proved adequate when he visited Dedham on the Summer Fun Day, and he was only aware of one road accident in the last three years, a slight accident at the junction of the High Street and Mill Road. Councillor Young said he would like to see more evidence to support the claims of inadequate toilet facilities and traffic safety.

It was confirmed by Councillor Young that the money to be allocated to this project will be put back into the overall capital pot and he was not going to personally reallocate these funds, which would be beyond his delegated powers. The reallocation of funding would fall in line with the new Strategic Plan to be approved by Cabinet and Council. Councillor Young said the Capital Programme did not have unlimited resources and the tight restraints meant all capital

spending would be in line with the Strategic Plan and this would mean difficult decisions like this having to be made. Councillor Young said the toilets at Duchy Field, Dedham would be refurbished at a cost of £50,000 with a further £25,000 available for art work, and that the overall refurbishment cost of £75,000 would attract some funding from the Arts Council.

Councillor Young said the Community Toilet Scheme is an incentive scheme where the Council try to encourage local businesses to make their toilet facilities available to the public, a format successfully adopted by many Councils throughout the country. It was Councillor Young's wish that this scheme would be introduced to Colchester, with Dedham being in the first phase of implementation, with businesses such as pubs, cafes and restaurants benefitting from this scheme. Councillor Young could not give assurances that the Council would fund the temporary toilets in Mill Road car park beyond the end of this financial year, but encouraged the Parish Council to consider funding this facility.

In response to Councillor Bentley, Maclean and Bouckley, Councillor Young said the Cabinet fully supported and encouraged tourism to Colchester and Dedham and reiterated his intention to introduce the Community Toilet Scheme, to be a part of a strategic report to be finalised by this October. The future Strategic Plan would address what would be considered things of greater priority e.g. ensuring sufficient dog bins in all areas of the borough, than a new build toilet block at the Dedham Mill Road Car Park. Councillor Young said the current toilet strategy was good and would be monitored regularly.

In response to Councillor Willetts, Councillor Young believed all major blockages at the Duchy Field Toilets were as a result of misuse or vandalism, not due to an inadequate sewage system. Councillor Young also confirmed that as part of the refurbishment of the Duchy Field toilet, the toilets would become fully compliant with the DDA, with blue badge disabled drivers being able to park in the High Street. Councillor Oxford confirmed that as a wheelchair user himself, he believed the half a mile distance disabled visitors would need to go from the car park to the toilet block was not an unreasonable distance.

In summary, Councillor Garnett said he would be interested to see the take-up and success of an introduction of a community toilet scheme to the area. Councillor Garnett said he would welcome an upgrade on the state of the pavement in Mill Road and still believed the only permanent toilets, those on Duchy Field, to be inadequate for the area, though he hoped the temporary toilet block at the car park would remain in situ during the high season for the foreseeable future.

In summary, Councillor Young said he had sympathy with the state of the Mill Road pavement but said this was a matter for the County Councillor to take up, being an Essex County Council responsibility. Councillor Young confirmed he would stick with the original Toilet Strategy, but Duchy Field toilets would be refurbished as previously mentioned.

Councillor Offen, supported by Councillor Harris proposed that the Panel confirm the decision,

which would be implemented immediately.

RESOLVED that the panel confirmed the decision (SIX voted FOR, FIVE voted AGAINST).

**Councillor Sue Lissimore (in respect of being a former member of the Board of Colchester Borough Homes) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**19. Work Programme 2008-09**

Mr. Judd, Scrutiny Officer gave a brief update to the panel on the progress to date on the outstanding items listed in the Work Programme.

*RESOLVED* that the panel;

i) noted the Work Programme 2008-09

ii) proposed that the Cabinet should be requested to agree that all future Council reports and agendas should be in black and white, and where previously coloured charts were used to graphically illustrate information, these should be replaced with words such as 'green', 'amber' and 'red'.

**20. Financial Monitor - Period April - June 2008**

Mr. Steve Heath, Finance Manager, presented the Financial Monitor report for period April to June 2008.

In response to Councillor Offen, Mr. Heath said the projected savings figure on the salary budget represented 2% of the salary budget. This figure would be monitored regularly, and whilst it appeared to not be making any significant progress, regular outturn forecasting will enable increased confidence in the actual figures and anticipated savings.

In response to Councillor Willetts and Bentley, Councillor Smith, Portfolio Holder for Resources and Business said the under recovery on car parking revenue was due to the two month delay in the introduction of increased car parking charges, which took effect in June, instead of April. The level of income since the increase in charges has resulted in an upturn in revenue, on target since June. Mr. Heath confirmed a more detailed analysis of this revenue stream would be reported to the panel on the Financial Monitor for period April to September.

In response to Councillor Goss, Councillor Smith confirmed that where yellow parking restriction lines were fading, it was becoming increasingly more difficult to enforce the recovery of parking fines. In many of these cases the complainant has on appeal had the fine withdrawn by the court. Councillor Smith said the painting of these lines was a

County responsibility, though they appeared not to have the funds for repainting. Mr. Heath also confirmed that the £192,000 budgeted expenditure relating to the Waste Review was frozen and will not be spent until the funding uncertainty is resolved. This will reduce the financial impact should the income not be forthcoming.

Mr. Heath confirmed to Councillor Harris that Temporary Accommodation was part of the key Risk area of Life Opportunities Bed and Breakfast, and all salary and wages figures included expenses such as overtime and training.

In response to Councillor Bentley, Mr. Heath said he expected the Housing Revenue Account to be fully committed in 2008-09.

Mr. Heath agreed to provide members of the panel with a further explanation to the final sentence to the Parking Services key risk area.

Councillor Offen asked that the Portfolio Holder for Neighbourhoods consider making a request to the Ministry of Defence to make use of their vacant housing in respect of people in Bed and Breakfast accommodation.

*RESOLVED* that the panel noted the financial performance of General Fund Services and the Housing Revenue Account in the first quarter of 2008-09.

**Councillor Chris Hall (in respect of being a Trustee of Firstsite) declared a personal interest in the following item which is also a prejudicial interest pursuant to the provisions of Meetings General Procedure Rule 7(10) and left the meeting during its consideration and determination.**

## **21. Capital Expenditure Monitor 2008-09**

Mr. Graham Coleman, Group Accountant, assisted by Sean Plummer, Finance Manager, presented the Capital Expenditure Monitor report for 2008-09.

In response to Councillor Offen, Mr. Plummer said 2008-09 was the first year of an initial five year Building Maintenance Programme. This programme is based on condition studies of Council properties. An addition contribution of £250k had been made towards the cost of this programme from the overall revenue surplus in 2007/08. In previous years, the cost of building repairs was drawn from service areas repairs and maintenance budgets and as part of the renewals and repairs provision.

Councillor Oxford said he would appreciate the Portfolio Holder for Culture, Tourism and Diversity speeding up the Highwoods Social Meeting Place project.

In response to Councillor Willetts, Councillor Smith, Portfolio Holder for Resources and Business said in respect of Firstsite Newsite, he regretted the current state of affairs, but said once an agreed way forward is reached, facts would be made available to

members, though it was the intention that the current building would be made water tight as soon as possible. In respect of the Decent Homes Programme, Councillor Smith said confidential details of the Decent Homes mediation settlement were disclosed to members of the panel in closed session at the June meeting.

*RESOLVED* that the Panel noted the level of capital spending during 2008-09 and forecasts for future years.

## **22. Ethical Investments**

Mr. Sean Plummer, Finance Manager, presented the Ethical Investments report.

Councillor Offen thanked officers for an excellent report (requested by the panel in July), giving clear arguments as to why the introduction of a prescriptive ethical policy is not possible.

*RESOLVED* that the panel noted the report on Ethical Investments and agreed to review the Council's "lending list" prior to consideration of the approval of the Annual Treasury Management and Investment Strategy.

