



Colchester  
City Council

# Council Meeting

**Council Chamber, Town Hall, High Street,  
Colchester, CO1 1PJ  
Wednesday, 19 July 2023 at 18:00**

# Information for Members of the Public

## Access to information and meetings

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

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

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

## Have Your Say!

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

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

## Audio Recording, Mobile phones and other devices

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

## Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms.

## Facilities

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

## Evacuation Procedures

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

Colchester City Council

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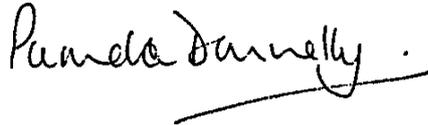
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**COLCHESTER CITY COUNCIL**  
**Council**  
**Wednesday, 19 July 2023 at 18:00**

**TO ALL MEMBERS OF THE COUNCIL**

**Published 11/07/2023**

You are hereby summoned to attend a meeting of the Council to be held on Wednesday, 19 July 2023 at 18:00 for the transaction of the business stated below.



**Chief Executive**

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

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

**Live Broadcast**

Please follow this link to watch the meeting live on YouTube:

[\(107\) ColchesterCBC - YouTube](#)

**Apologies**

Apologies have been received from Councillor Tate.

**1 Welcome and Announcements (Council)**

The Mayor will welcome members of the public and Councillors and will ask the Chaplain to say a prayer. The Mayor will explain the arrangements and the procedures to be followed at the meeting including a reminder everyone to use microphones at all times when they are speaking.

**2 Have Your Say! (Council)**

Members of the public may make representations to the meeting on any item on the agenda or any other matter relating to the business of Council. Members of the public may register their wish to address the Council by e-mailing [democratic.services@colchester.gov.uk](mailto:democratic.services@colchester.gov.uk) by 12.00 noon on the working day before the meeting. However,

advance registration is not mandatory and members of the public may register to speak in person immediately before the meeting.

### 3 **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 registerable interest or non-registerable interest.

### 4 **Minutes of the Previous Meeting (Council)**

A... Motion that the minutes of the meeting held on 24 May 2023 be confirmed as a correct record.

**Council minutes 240523**

9 - 14

### 5 **Mayor's Announcements**

The Mayor to make announcements.

### 6 **Items (if any) referred under the Call-in Procedure (Council)**

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

At the time of the publication of the Summons there are none.

### 7 **Recommendations of the Cabinet, Panels and Committees**

Council will consider the following recommendations:-

#### 7(i) **Annual Scrutiny Report 2022-23**

15 - 16

B... Motion that the recommendation contained in minute 399 of the Scrutiny Panel meeting of 14 March 2023 be approved and adopted.

#### 7(ii) **Changes to the Hackney Carriage and Private Hire Licensing Policy**

17 - 38

C... Motion that the recommended decisions set out in the report by the Head of Governance be approved adopted.

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

Council will consider the following Motions:-

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

#### 8(i) **Anti Social Behaviour in the City Centre**

Motion D

Proposer: Cllr Cox

*If our city is to thrive, residents and visitors must feel safe.*

*This Council notes the rising incidents of anti-social behaviour (ASB) in the historic city centre and surrounding neighbourhoods, which include:*

- *damage to property;*
- *harassment and abuse of staff and customers in the retail and hospitality sectors;*
- *thefts from shops which harm businesses and which can heighten vulnerability experienced by retail staff and customers.*

*We call on the City Council and local Community Safety Partnership:*

- *to develop and implement a new Anti-Social Behaviour Plan to tackle these issues;*
- *to lead a new collaboration with Essex Youth Services to develop and resource a new Youth Outreach Strategy to engage more effectively with those young people currently involved in ASB;*
- *to bring together adult social care, health and substance misuse services to map efforts to address the causes of ASB*
- *to work with the Police and Crime Commissioner to review policing resource for Colchester.*

As the motion relates to an executive function, it will stand referred direct to Cabinet unless Procedure Rule 11(2) is suspended.

8(ii) **The Impact of Pylons on the Area of Outstanding Natural Beauty**

Motion E

Proposer: Cllr Laws

*This Council notes:*

1. *The pride, affection and enjoyment with which residents and visitors have towards our local beauty spots and their tranquillity.*
2. *National Grid are seeking to transport electricity across East Anglia via pylons which would have a dramatic impact on our residents, especially those living in Langham, Boxted, Fordham, Great Horkesley, Little Horkesley, West Bergholt, Aldham, Marks Tey and beyond.*
3. *Norfolk, Suffolk and Essex have some of the most beautiful landscapes in the UK, immortalised by painters such as John Constable RA, as such these 50 metre high pylons are incompatible with these landscapes and challenge our revered 'big skies'.*
4. *The Dedham Vale Area of Outstanding Natural Beauty (AONB), which is a protected landscape, has been singled out as an area for power cables to be laid underground but this is only being*

*considered on the basis of the defined area of the AONB. Topographical considerations close to the AONB appear not to have been considered and you will be able to see these pylons from within the AONB.*

*Furthermore, the setting of the AONB will be compromised with the 'sealing-end compounds' (electrical sub-stations) as well as the installation of inspection pits.*

*5. The construction of the pylons and associated hardware will have a detrimental impact on our overburdened rural road infrastructure; including lanes with damage to verges likely where there are often no passing places.*

*6. Further negative consequences during the construction of these pylons could include damage to various habitats of wildlife including: trees, biodiversity, plant-life as well as also negatively impacting on regional tourist attractions and archaeology.*

*7. Current rules stipulate local Planning Authorities determine if onshore wind turbines are permissible.*

*This Council informs Cabinet of its opinion that:*

*1. Robust representations should be made, during and outside of consultation periods, to the government decision makers to oppose new pylons blighting our beautiful countryside.*

*2. Collaborative working with other local authorities and MPs should take place to support calls for an offshore grid, including for the North Falls and Five Estuaries wind farms; in order to speed up delivery of green energy, cut its cost and protect the Dedham Vale Area of Outstanding Natural Beauty and surrounding countryside.*

*3. Any attempt to overrule local Planning Authority decision making regarding onshore wind turbines, which would also blight our beautiful countryside, should be resisted*

The motion will be debated and determined at the meeting.

## **9 Questions to Cabinet Members and Committee Chairs pursuant to Council Procedure Rule 10**

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

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

At the time of the publication of the Summons no pre-notified questions had been received.

- 10 **Updates to the Constitution** 39 - 94  
 F...Motion that the recommendations in the Monitoring Officer's report be approved and adopted.
- 11 **Schedule of Portfolio Holder Decisions** 95 - 102  
 Council is invited to note the Schedule of Portfolio Holder decisions for the period 10 February 2023 - 7 July 2023.
- 12 **Urgent Items (Council)**  
 Council will consider any business not specified in the Summons which by reason of special circumstances the Mayor determines should be considered at the meeting as a matter of urgency.
- 13 **Reports Referred to in Recommendations**  
 The reports specified below are submitted for information and referred to in the recommendations specified in item 7 of the agenda:
- Annual Scrutiny Report 2022-23, report to Scrutiny Panel, 14 March 2023** 103 - 132
- Card Machines in Licensed Vehicles, report to Licensing Committee, 18 January 2023** 133 - 154
- Electronic Payment Devices in Licensed Vehicles, report to Licensing Committee, 22 March 2023** 155 - 158
- Approval of the NR3 Policy, report to Licensing Committee, 22 March 2023** 159 - 168
- 14 **Exclusion of the Public (not Scrutiny or Executive)**  
 In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

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



# Council

Wednesday, 24 May 2023

**Attendees:**

Councillor Tracy Arnold, Councillor Lewis Barber, Councillor Lyn Barton, Councillor Kevin Bentley, Councillor Catherine Bickersteth, Councillor Molly Bloomfield, Councillor Michelle Burrows, Councillor Roger Buston, Councillor Mark Cory, Councillor Pam Cox, Councillor Paul Dundas, Councillor Andrew Ellis, Councillor Mark Goacher, Councillor Martin Goss, Councillor Jeremy Hagon, Councillor Dave Harris, Councillor Mike Hogg, Councillor Alison Jay, Councillor John Jowers, Councillor David King , Councillor Jocelyn Law, Councillor Darius Laws, Councillor Michael Lilley, Councillor Sue Lissimore, Councillor Andrea Luxford Vaughan, Councillor Jackie Maclean, Councillor Sam McCarthy, Councillor Sam McLean, Councillor Sara Naylor, Councillor Steph Nissen, Councillor Chris Pearson, Councillor Carl Powling, Councillor Kayleigh Rippingale, Councillor Thomas Rowe, Councillor Lee Scordis, Councillor Lesley Scott-Boutell, Councillor Fay Smalls, Councillor Paul Smith, Councillor Natalie Sommers, Councillor Michael Spindler, Councillor William Sunnucks, Councillor Leigh Tate, Councillor Martyn Warnes, Councillor Dennis Willetts, Councillor Julie Young, Councillor Tim Young

**601 Apologies**

Apologies were received from Councillors Barber\*, Davidson, Ellis\*, Kirkby-Taylor, Lilley\*, Mannion and Smithson.

\* Mayor Making ceremony only.

**602 Prayers**

The Revered Sue Howlett opened the meeting with prayers.

The Retiring Mayor, Councillor T. Young, chaired the meeting for the items at minutes 601 – 603.

**603 Election of the Mayor**

It was PROPOSED by Councillor Bentley, seconded by Councillor J. Young and supported by Councillors Goss and Goacher and:-

*RESOLVED UNANIMOUSLY* that Councillor Jowers be elected as Mayor of the City of Colchester for the ensuing municipal year.

Councillor Jowers took the customary oath and signed the declaration of acceptance of office.

Councillor Jowers then took the Chair and returned thanks for his election.

**604 Minutes of the Previous Meetings**

*RESOLVED* that the minutes of the meetings held on 22 February 2023 and 23 March 2023 be confirmed as a correct record.

**605 Election of the Deputy Mayor**

It was PROPOSED by Councillor Goss and seconded and supported by Councillors Dundas, J. Young and Goacher and:

*RESOLVED UNANIMOUSLY* that Councillor Scott-Boutell be elected as Deputy Mayor of the City of Colchester for the ensuing municipal year.

Councillor Scott-Boutell then signed the declaration of acceptance of office and returned thanks for her election.

**606 Vote of Thanks to the Retiring Mayor**

It was PROPOSED by Councillor Scordis and seconded and supported by Councillors Dundas, Goss and Goacher and:-

*RESOLVED UNANIMOUSLY* that the best thanks of the Council are due and are hereby recorded to Councillor Tim Young for the admirable manner in which he has discharged

the responsible duties of the Mayoralty during his period of office and that a transcript of this resolution under the Common Seal be furnished to him.

#### **607 Mayor's Chaplain and Other Announcements**

The Mayor announced that the theme of his Mayoralty would be “Volunteers – the heart of our communities.”

The Mayor announced that he would be supporting the following charities:-

Army Benevolent Fund  
Community 360  
LEPRA  
Freedom Boat Adventures  
Beacon House Ministries

The Mayor announced that he had appointed the Reverend Dr Amanda Elmes as his Chaplain.

#### **608 Adjournment**

*RESOLVED* that the meeting be adjourned until 12.00 noon in the Council Chamber.

#### **609 Have Your Say! (Council)**

Angel Kalyan addressed Council pursuant to the provisions of Council Procedure Rule 5(1) to ask the Leader of the Council whether there had been any progress since 22 February 2023 when she last addressed the Council, as she had heard nothing. Would the Leader meet with her as she had been denied due process and there was inconsistency between what the Monitoring Officer had told Council and what she could prove as fact.

Councillor King, Leader of the Council and Portfolio Holder for Strategy, indicated that her concerns had been examined exhaustively by officers, by the Court and by the Ombudsman. Whilst he was sorry for the distressing set of circumstances she had

experienced, there was nothing further the Council could say in respect of her concerns. The Council could not reopen these issues. As a matter of personal courtesy he would be prepared to have a conversation but the position remained that the matter was closed.

#### **610 Delegations made by the Leader of the Council**

*RESOLVED* that the Deputy Leader of the Council, the appointment of Cabinet members, and the allocation of responsibility for Portfolios, as determined by the Leader of the Council and as set out in the Supplementary Information for this meeting, be noted.

#### **611 Appointment of Panels, Committees and Sub-Committees**

*RESOLVED* that:-

(i) In accordance with the provisions of the Local Government and Housing Act 1989 the number of seats, group representation and membership of the Governance and Audit Committee, Licensing Committee, Planning Committee, Policy Panel and Scrutiny Panel (including the Crime and Disorder Committee) for the ensuing municipal year be as set out in the Supplementary Information for this meeting.

(ii) In accordance with the provisions of section 17 of the Local Government and Housing Act 1989 the appointments to the Environment and Sustainability Panel and Local Plan Committee for the ensuing municipal year shall not be on a Group basis and the membership be as set out in the Supplementary Information for this meeting

(iii) That the membership of the Independent Remuneration Panel be as set out in the Supplementary Information for this meeting.

#### **612 Honorary Alderman Eligibility Criteria**

Alderman Lewis addressed the Council pursuant to the provisions of Council Procedure Rule 5(1) and offered her congratulations to the Mayor. Honorary Alderman met regularly to discuss civic matters informally. This saved time in decision making and

helped prevent misunderstandings. However, this proposal had not been subject to the normal processes with a report submitted without any informal debate beforehand. Whilst it was suggested that all Group Leaders were in support this was not the case. The Alderman Group had voted 10 to one against the proposal. Comparisons with our authorities were irrelevant as no two authorities had the same criteria. The proposals would create a two tier system and put issues of heritage and tradition into the political arena. The Alderman vote in February had been disregarded and Aldermen requested that Council support their views to keep such issues out of the political arena.

The High Steward, Alderman Sir Bob Russell, addressed the Council pursuant to the provisions of Council Procedure Rule 5(1) and offered his congratulations to the Mayor. He was the first Mayor who had previously been Chair of Essex County Council and Mayor of West Mersea Town Council. This proposal had been sprung on Honorary Alderman who had not been shown respect. The proposal stemmed from a desire to award Honorary Alderman status on former Councillor Turrell, but there had been no discussion on the issue before a report was submitted to the Alderman Group in February. That the proposal was taken forward with such little support amongst Honorary Alderman showed a lack of respect and courtesy. The vote had been tied at Governance and Audit Committee. The claim that this would bring consistency with Essex County Council was not true as they did not operate a 16 year criteria. The City Council's processes predated Essex County Councils so there was no reason to follow them. The other examples given related to Council's in Hertfordshire so were of limited relevance. Council should take its own decisions and any Councillors who respected tradition should vote against the proposal.

Alderman Higgins addressed the Council pursuant to the provisions of Council Procedure Rule 5(1) and offered her congratulations to the Mayor. She had tried to raise the matter informally. The current criteria had been in place for a considerable period and rules and criteria could change over time. The point of the Alderman system was to recognise service. Former Councillor Turrell had served as Leader of the Council for six years, which deserved recognition. Essex County Council had changed their criteria and she had been a beneficiary of that.

Councillor Smith moved the motion and requested that separate votes be taken on the eligibility criteria contained in the recommendation, firstly on criteria (i) and (ii) together, and then a separate vote on criteria (iii). The Mayor indicated he was content with this proposal.

On being put to the vote the voting was as follows:—

Criteria (i) and (ii) were approved (TWENTY ONE voted FOR and EIGHTEEN voted AGAINST).

Criteria (iii) was not approved (SEVENTEEN voted FOR and TWENTY THREE voted AGAINST).

**613 Code of Conduct Complaint**

*RESOLVED* that the recommendations contained in draft minute 365 of the Governance and Audit Sub Committee meeting of 30 March 2023 be approved and adopted.

**614 Adoption of the Tiptree Neighbourhood Plan**

*RESOLVED (UNANIMOUS)* that the Council makes the Tiptree Neighbourhood Plan following its approval at referendum.

**615 Authorisation of Absence from Council and Committee meetings**

The Mayor indicated that this report had been withdrawn.

**616 Motion of Thanks**

*RESOLVED (UNANIMOUS)* that the Council recorded its grateful thanks to former Councillors Chapman, Chuah, Coleman, Fox, Leatherdale, Moore, B. Oxford, G. Oxford and Wood for the public service rendered by them to the City during their period of office as a Councillor and instructs that a transcript of this resolution be furnished to them under the Common Seal as a permanent record of the appreciation of the Council.

The Mayor invited newly elected Councillors Dundas, Moffat, Powling, Rowe, Smalls and Sommers to introduce themselves to Council.

**Extract from the minutes of the Scrutiny Panel meeting of 14 March 2023**

**399. Annual Scrutiny Report for 2022-23**

The Chairman explained the purpose of this report and, should there be a need for additions following the Panel meetings on 14 and 15 March 2023, offered to agree any additions with the lead group members.

*RECOMMENDED* that Council approves the Annual Scrutiny Report for 2022-23.



<b>Report of</b>	<b>Head of Governance</b>	<b>Author</b>	<b>Matthew Evans</b> ☎ 03300 538006
<b>Title</b>	<b>Changes to the Hackney Carriage and Private Hire Licensing Policy</b>		
<b>Wards affected</b>	Not applicable		

## **1. Executive Summary**

- 1.1 To request that the results of a recent consultation in respect of amendments to the Hackney Carriage and Private Hire Licensing Policy are noted, and that the proposed changes to the Policy, which have been approved by the Licensing Committee, be adopted.

## **2. Recommended Decision**

- 2.1 It is recommended that the changes to the Council's Hackney Carriage and Private Hire Licensing Policy which are set out in paragraphs 6.1 to 7.3 of this report and which relate to the requirement for all licensed vehicles to be fitted with the means to accept electronic payments, be adopted and form part of the Council's Policy Framework from 19 October 2023, and that these changes will then apply to all vehicle licences (both new and renewed) which are issued after this date.
- 2.2 It is recommended that the change to the Council's Hackney Carriage and Private Hire Licensing Policy which is set out at paragraphs 5.7-5.9 of this report, and which relates to the introduction of the Council's Policy in relation to the NR3 database, be implemented with immediate effect and be adopted as part of the Council's Policy Framework.

## **3. Reason for Recommended Decision**

- 3.1 The Council has committed to keeping the Hackney Carriage and Private Hire Licensing Policy under review to ensure that it remains fit for purpose and is responsive to the changing licensing environment. The Policy has been in operation since October 2020 (the last time it was changed) and the proposed changes will ensure that it continues to be up to date and relevant.

## **4. Alternative Options**

- 4.1 To leave the Policy unaltered, which would fail to address the recent issues identified.

## **5. Background Information – Card machines in licensed vehicles**

- 5.1 At its meeting on 28 September 2022, the Licensing Committee provisionally approved amendments to the Hackney Carriage and Private Hire Licensing Policy subject to the results of a public consultation, and this consultation was duly carried out between 7 October 2022 and 18 November 2022.
- 5.2 At the meeting of the Licensing Committee held on 18 January 2023, the Committee considered the consultation responses which had been received and accordingly resolved that the changes to the Hackney Carriage and Private Hire Policy be approved in full and recommended to Council for adoption. An extract of the minutes of the Licensing Committee meeting held on 18 January 2023 is attached to this report at Appendix 1.
- 5.2 At its meeting on 22 March 2023, the Committee considered further amendments to the Council's Hackney Carriage and Private Hire Licensing Policy, in relation to the number of penalty points which were to be awarded for the failure to provide the means to accept card payments for a journey. Additionally, the Committee was asked to amend the licensing and pre-licensing conditions of both hackney carriage and private hire vehicles to enable the implementation of the Policy amendments which the Committee had resolved be recommended to Council on 18 January 2023. An extract of the minutes of the Licensing Committee meeting held on 22 March 2023 is attached to this report at Appendix 2.
- 5.3 The Licensing Committee requested that additional information be provided to Council in relation to the making of refunds for card payments, and the following information has accordingly been provided:
- The regulation of card payments is a matter that is beyond the Council's remit, and lies with the financial services industry through its own legislation and regulators such as the Payment Systems Regulator and Financial Services Ombudsman. In relation to refunds, all card payment devices have the ability to issue a refund back to the card, the specifics of the method by which the refund is made vary from card to card. In areas where there is no or poor mobile coverage, the transaction will, in general, fully complete the next time there is a live internet connection. The Council can deal with any refusals to issue a refund through its complaints system.
- 5.4 Following the Licensing Committee's recommendation that the Council's Hackney Carriage and Private Hire Licensing Policy be amended, it was noted that no timescale had been included in this resolution, and it may therefore be inferred that changes would be implemented immediately, affecting all vehicles. This would potentially create significant issues for the licensed trade and Council Officers, and Council is therefore asked to implement the Policy changes with effect from 19 October 2023 to allow time for adequate preparations for the new requirements to be made.
- 5.5 The complete proposed and approved changes to the Hackney Carriage and Private Hire Licensing Policy are set out in paragraphs 6.1 to 7.3 below:

## **5.6 Background Information - National Register of Taxi Licence Revocations and Refusals**

- 5.7 At its meeting on 18 January 2023, the Licensing Committee provisionally approved amendments to the Hackney Carriage and Private Hire Licensing Policy subject to the results of a public consultation, and this consultation was duly carried out between 31 January 2023 and 14 March 2023.

5.8 At the meeting of the Licensing Committee held on 22 March 2023, the Committee considered the consultation responses which had been received and accordingly resolved that the changes to the Hackney Carriage and Private Hire Policy be approved in full and recommended to Council for adoption. An extract of the minutes of the Licensing Committee meeting held on 22 March 2023 is attached to this report at Appendix 3.

5.9 The NR3 Policy document is attached to this report at Appendix 4.

**6. Changes to the Penalty Point Scheme**

6.1 The penalty point scheme has been reviewed and it is suggested that the points for contravention of the requirement to have and operate an electronic payment device be reduced from the originally proposed 4 to 3 points. This change will bring the points into line with those given for first offences for a variety of other matters.

<b>113</b>	Failure to comply with the requirements relating to the provision and/or operation of an electronic payment device		x	x	x
	1 <sup>st</sup> offence	3			
	2 <sup>nd</sup> offence	6			
	3 <sup>rd</sup> offence	9			
	4 <sup>th</sup> offence	12			

**7. Proposed amendments to the Policy**

7.1 Set out below are the proposed changes to the Hackney Carriage and Private Hire Licensing Policy.

**7.2 Annex 2 – Hackney Carriage Vehicles Licensing Standards and Conditions**

Pre-Licensing Standards and Conditions

15. Electronic Payment Device

15.1 The vehicle must be equipped with an electronic payment device.

Conditions of Licence

21. Electronic Payment Device

21.1 Vehicles must be equipped with the means to accept electronic payments in addition to cash. The vehicle must have a Colchester City Council approved electronic payment device (see 21.2 below) which can accept an electronic payment.

21.2 Approved Electronic Payment methods

BarclayElectronic payment/App  
Cab:app Ltd (Miura M010)  
Cabvision Network Ltd (Ingenico)  
Elavon  
Farepay Ltd (Miura M010)  
Ingenico  
iZettle (Miura M010)  
LoPay  
Payataxi (Miura M010)  
PayPal (Miura M010)  
SquareApp  
SumUp (Miura M010)  
Viva Wallet  
Worldpay

Further electronic payment methods/Apps may be used upon application to, and approval by, the Council.

21.3 The Council considers the electronic payment facility to be part of the vehicle and as such it must be working at all times.

21.4 The vehicle must display the Colchester City Council approved stickers on both the rear passenger window and inside the vehicles indicating that debit and credit card payments are now taken.

21.5 If the means of making electronic payments is not working this must be reported immediately to the Council. The Council must be notified when any problems have been resolved and the payment facility is again operational.

21.6 If there is concern that the electronic payment facility may not work at the destination point, a fare may be agreed and paid in advance for the journey. This is permitted on condition that the meter is used, and if the metered charge is less than the agreed payment for the journey, the overpayment is refunded.

### 7.3 **Annex 3 – Private Hire Vehicles Licensing Standards and Conditions**

Pre-Licensing Standards and Conditions

15. Electronic Payment Device

15.1 The vehicle must be equipped with an electronic payment device.

Conditions of Licence

21. Electronic Payment Device

21.1 Vehicles must be equipped with the means to accept electronic payments in addition to cash. The vehicle must have a Colchester City Council approved electronic payment terminal (see 21.2 below) which can accept an electronic payment.

21.2 Approved Electronic Payment methods

BarclayElectronic payment/App  
Cab:app Ltd (Miura M010)  
Cabvision Network Ltd (Ingenico)

Elavon  
Farepay Ltd (Miura M010)  
Ingenico  
iZettle (Miura M010)  
LoPay  
Payataxi (Miura M010)  
PayPal (Miura M010)  
SquareApp  
SumUp (Miura M010)  
Viva Wallet  
Worldpay

Further Electronic payment methods/Apps may be used upon application to, and approval by, the Council.

21.3 The Council considers the electronic payment facility to be part of the vehicle and as such it must be working at all times.

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21.5 If the means of making electronic payments is not working this must be reported immediately to the Council. The Council must be notified when any problems have been resolved and the payment facility is again operational.

21.6 If there is concern that the electronic payment facility may not work at the destination point, a request can be made to pay in advance for the journey.

## **6. Equality, Diversity and Human Rights Implications**

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

## **7. Standard References**

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

## **8. Strategic Plan References**

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

## **9. Consultation**

8.1 The changes have been the subject of consultation and therefore no further consultation is required.

## **10. Publicity Considerations**

9.1 The new revised Policy will be available for all on the Council's website.

## **11. Financial Implications**

10.1 There may be costs incurred in defending any action brought against the Council which seeks to judicially review the policy.

## **12. Health, Wellbeing and Community Safety Implications**

11.1 There are no known direct health & safety or community safety issues which might arise from the adoption of the revised Policy.

## **13. Health and Safety Implications**

13.1 it is not considered that the proposal will have any health and safety implications for the public.

## **14. Risk Management Implications**

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

## **15. Environmental and Sustainability Implications**

15.1 There are no known environmental or sustainability implications.

## **Appendices**

Appendix 1 – Extract of Minutes from 18 January 2023

Appendix 2 – Extract of Minutes from 22 March 2023

Appendix 3 – Extract of Minutes from 22 March 2023

Appendix 4 – NR3 Policy document

**163. Card Machines in Licensed Vehicles – Consultation responses**

Peyman Oyar Hossein attended the meeting and addressed the Committee in accordance with Colchester City Council (the Council)'s Have Your Say! arrangements. Mr Hossein was the Chair of Colchester's Hackney Carriage Association. He has used a card machine for over 12 years, but strongly felt that the Council should not be dictating that card machines in all licensed vehicles were mandatory. The reason for this was the poor internet signal in and around Colchester, and in areas of poor signal it was extremely difficult to receive payment for a fare. Asking passengers to pay for a journey up front did not look professional, and until the network could provide drivers with perfect reception, then the provision of card machines in licensed vehicle should not be compulsory. It was considered that other business which were licensed by the Council did not have to provide card payment machines, so why were licensed vehicles being made the exception? Although it was still possible to accept cash as payment, many people did not carry cash anymore and a request for payment up front could cause offence and arguments, and the taxi trade felt that it was vulnerable to disputes and passengers making off without payment.

Councillor Goss, Portfolio Holder for Neighbourhood Services and Waste, attended the meeting remotely and addressed the Committee in accordance with the Council's Have Your Say! arrangements. Councillor Goss voiced his support for the proposal, noting that he had heard from residents who had been caught out late at night when taxis were unable to accept card payments, leading to longer journeys to get cash out from a cash point. It was therefore right that the Council mandated card machines in licensed vehicles, however the option to pay by cash should remain. The majority of businesses were able to accept payment by both card and cash, and he noted that the proposed Policy allowed for payments of any form to be accepted. He considered that it should be down to the individual proprietor to chose the type of card machine that they employed, although did accept that network connectivity problems were a legitimate concern. Although there was the possibility for fraudulent payments to be made, this was a risk accepted by any business, and the presence of closed circuit television in many taxis would go some way to protecting the drivers against this activity. On balance, he offered his support for the proposals, and considered that the vast majority of his constituents would also welcome the scheme.

David Daniel attended the meeting and addressed the Committee in accordance with the Council's Have Your Say! arrangements. He had been a taxi driver for over 40 years and did not think that the provision of card reader machines should be compulsory. He noted that the majority of comments which had been received in response to the consultation were from mini-cab drivers who had the support of their employer and who had no idea of the aggression which hackney carriage drivers had to deal with. He did not have a card machine in his vehicle, and noted that there were very many hackney carriages equipped with card machines, who were able to take jobs paid by card which he could not. He was happy to wait longer for a job

which would be paid by cash, and it was his right to run his business as he saw fit in this regard.

Stewart Beer attended the meeting and addressed the Committee in accordance with the Council's Have Your Say! arrangements. He had been a hackney carriage driver for over 20 years, and had been taking card payments for the past 6 years. He did not understand how the method of payment used in licensed vehicles was a licensing concern. He advised the committee that in November 2022 an official government response to a survey had stated that businesses were entitled to accept payment by whichever method they wished. He was happy to accept card payments, but noted that there were licensed establishments in the town centre who accepted cash only, and questioned why licensed vehicles were treated differently. He was aware that it was possible to ask for payment for a journey up front, but did not like to do this as he felt that this questioned his customer's integrity. He was very concerned about the proposed penalties for failure to provide a card machine listed under the Council's Penalty Point Scheme, and considered these to be draconian. Although it had been suggested that larger private hire companies did take payment up front, Mr Beer reminded the Committee that drivers for these companies were in receipt of protection from their employers which sole proprietors were not.

Jon Ruder, Licensing and Food Safety Manager, attended the meeting to present the report and assist the Committee with its deliberations. The Committee heard that there had been 48 responses to the consultation, with 36 of these in favour of introducing the requirement for card payment machines to be made available in licensed vehicles, with 6 against and 6 uncertain. In response to the comments which the Committee had received, it was clarified that the proposed Policy would not require all payments to be made via card, and there would always be the option for cash payments to be received. Although a detailed list of complaints received in relation to the refusal to accept card payments was not available at the meeting, it was confirmed to the Committee that anecdotally, the number of complaints associated with failure to accept card payments from both the public and the licensed trade itself had increased since the end of lockdown as people now preferred to pay by card.

Although other types of businesses were licensed by the Council, these were not regulated in the same way that hackney carriages and private hire vehicles were, and the Policy which was applied to these vehicles was not implemented by Officers, but rather the Licensing Committee. It was possible to request a cash payment up front, however, if the meter in a hackney carriage showed a fare which was less than the amount which had been paid up front, the difference must be refunded to the customer. The costs associated with taking a journey in a private hire vehicle were managed via the private hire operator.

A Committee member noted the concerns which had been raised by drivers in relation to the proposal, however, considered that when a destination was requested by a passenger, the driver would know whether or not it was likely to be in a bad signal area, and then could ask for a card payment up front or cash on arrival. Provided there was clarity from the start in this manner, it was suggested that most

problems could be avoided. In response to questioning, it was clarified to the Committee by Jon Ruder that to refuse to take a passenger from a taxi rank could constitute an offence, and there were only certain circumstances where such a refusal would be lawful, even if the journey requested was a short one. Issues could be caused by drivers not adhering to rank etiquette with regard to accepting fares, and any complaints which were generated as a result of this would be investigated on their own merits.

A Committee member voiced surprise that not all licensed vehicles were already equipped with card machines, considering that most people did not carry cash routinely these days, particularly the younger generation. They had considered the points which had been raised very carefully, but recognised that when policy was changed, it was not possible to please everybody. On balance, they considered that the benefits offered by the provision of card machines outweighed the stated disadvantages, and would further serve to increase the safety of drivers and passengers alike, noting the recent press reports of a spate of robberies of licensed vehicles. It was considered unlikely that the introduction of mandatory card machines in licensed vehicles would make drivers worse off, but it could very well make them better off and better able to offer a more attractive service to customers.

In further discussion, a member of the Committee was uneasy with the enforced introduction of card payment machines, noting that of the responses which had been received to the consultation, 33% were against the proposal or were undecided, which was a significant amount. They considered that the trade should have the choice on whether or not to use card machines, and further thought that the proposed level of penalty points for failure to make a card machine available was far too high. Jon Ruder advised the Committee that the amount of penalty points which would be applied for failure to comply with the policy could be revisited by Officers.

The Committee wondered whether it was appropriate to delay the introduction of the proposed policy until the network provision across the city had been improved to allow card payment to be taken in more areas, and some concern was raised that the proposed policy would potentially negatively impact on the income of taxi drivers. The Committee was advised that it was considered that it would be dangerous for licensed drivers to advertise that they only took cash on their vehicles, as this could make them more likely to be targets for robbery.

Christine, the owner of Panther Cabs, attended the meeting, and with the permission of the Chair, addressed the Committee. She said that of the 196 which her company used, only 3 did not have a card machine in their vehicle, which was their choice. Although she personally would choose to make card machines available, she did not consider that this should be made compulsory, and should be the driver's choice.

David Daniel raised further concerns that he would receive points on his licence for advising customers that he preferred to be paid in cash, even if he did provide a card machine, and did not think that this was fair. Jon Ruder assured the Committee that penalty points under the Council's policy were not issued without a full investigation, including making reference to CCTV and other sources of evidence where available,

and interviewing the driver concerned. It was already an offence to refuse a fare for any reason, and all complaints would be investigated.

The Committee, and those in attendance, were advised that the Committee was being requested to refer the adoption of the new policy on to Full Council for a final decision, where the matter would again be the subject of debate prior to implementation, providing another opportunity for concerns to be raised.

*RESOLVED* that:

- it be recommend to full Council that the Council's Hackney Carriage and Private Hire Licensing Policy be amended to require licensed vehicles to be fitted with the means to accept electronic payments in addition to cash.

### **169. Electronic Payments in Licensed Vehicles – Policy changes**

The Committee considered a report setting out proposed changes to Colchester City Council's Penalty Point Scheme in relation to the requirement that all licensed vehicles were to be equipped with the means to accept electronic payments in addition to cash. The report also detailed the proposed changes to Hackney Carriage and Private Hire Licensing Policy.

Sarah White, Licensing Team Leader, attended the meeting to present the report and assist the Committee with its deliberations. The Committee was being asked to consider the penalty points which would be allocated to proprietors or drivers under the Council's Penalty Point Scheme in relation to failure to provide a card machine in a vehicle, in the light of concerns which it had raised at its previous meeting. The suggestion before the Committee was to reduce the points to be allocated for this failure from 4 to 3, which would bring the penalty points under the Scheme in line with first offences for other matters. The Committee was also requested to consider adjustments to the Council's Hackney Carriage and Private Hire Policy which were required to amend the Hackney Carriage and Private Hire Vehicle Standards and Conditions as set out in the Officer's report.

In discussion, it was clarified to the Committee that penalty points imposed under the proposals would be for the failure to use a card machine which would be required to be installed in the vehicle. Such points would be treated in the same way as other penalty points, and would be removed over time in accordance with the Council's Policy. The Committee clarified that it was proposed to ask Full Council to approve the Policy amendments at its meeting in July 2023, and the proposals would come into effect after this time.

A Committee member requested clarification on how the process of refunding a card payment would work in areas of poor signal, considering that clarification on this issue was important before a final decision was made by Full Council. It was understood that any refund had to be made via the same method as the original payment, was it possible to make a refund in cash when the original payment had been made by card? The Committee requested that further information on this point be presented to Full Council when it was asked to consider adopting the proposal, in order that the decision be as informed as possible, and this request would be reflected in the resolution made by the Committee.

The Licensing Team Leader confirmed to the Committee that the approach which would be taken to approving card readers for use in the future would be a flexible one, based on the individual machine presented. It was intended that as much freedom as possible be afforded to proprietors when they selected a card machine they wished to use.

Councillor Buston attended the meeting remotely, and, with the permission of the Chair, addressed the Committee. He considered that the proposal which had been made was a sensible one, and reminded those present that the policy amendment

did not preclude the use of cash to pay fares. He was confident that the proposed scheme would work well, and Officers would implement it effectively.

A Committee member clarified that the resolution that was proposed by the Committee was for the Policy changes proposed in the Officers report, however, the minutes of the meeting would show that Officers had been requested to provide additional information to Full Council when the proposed Policy amendments were considered.

*RECCOMENDED TO COUNCIL* that:

Colchester City Council’s Hackney Carriage/Private Hire Policy be amended to read as follows:

**S.113 Penalty Point Scheme**

<b>113</b>	Failure to comply with the requirements relating to the provision and/or operation of an electronic payment device		x	x	x
	1 <sup>st</sup> offence	3			
	2 <sup>nd</sup> offence	6			
	3 <sup>rd</sup> offence	9			
	4 <sup>th</sup> offence	12			

**Annex 2 – Hackney Carriage Vehicles Licensing Standards and Conditions**

Pre-Licensing Standards and Conditions

15. Electronic Payment Device

15.1 The vehicle must be equipped with an electronic payment device.

Conditions of Licence

21. Electronic Payment Device

21.1 Vehicles must be equipped with the means to accept electronic payments in addition to cash. The vehicle must have a Colchester City Council approved electronic payment device (see 21.2 below) which can accept an electronic payment.

21.2 Approved Electronic Payment methods

BarclayElectronic payment/App  
[Cab:app Ltd](#) (Miura M010)

[Cabvision Network Ltd](#) (Ingenico)

Elavon

[Farepay Ltd](#) (Miura M010)

[Ingenico](#)

[iZettle](#) (Miura M010)

LoPay

[Payataxi](#) (Miura M010)

[PayPal](#) (Miura M010)

SquareApp

[SumUp](#) (Miura M010)

[Viva Wallet](#)

[Worldpay](#)

[Further electronic payment methods/Apps may be used upon application to, and approval by, the Council.](#)

21.3 The Council considers the electronic payment facility to be part of the vehicle and as such it must be working at all times.

21.4 The vehicle must display the Colchester City Council approved stickers on both the rear passenger window and inside the vehicles indicating that debit and credit card payments are now taken.

21.5 If the means of making electronic payments is not working this must be reported immediately to the Council. The Council must be notified when any problems have been resolved and the payment facility is again operational.

21.6 If there is concern that the electronic payment facility may not work at the destination point, a fare may be agreed and paid in advance for the journey. This is permitted on condition that the meter is used, and if the metered charge is less than the agreed payment for the journey, the overpayment is refunded.

### **Annex 3 – Private Hire Vehicles Licensing Standards and Conditions**

#### Pre-Licensing Standards and Conditions

15. Electronic Payment Device

15.1 The vehicle must be equipped with an electronic payment device.

#### Conditions of Licence

21. Electronic Payment Device

21.1 Vehicles must be equipped with the means to accept electronic payments in addition to cash. The vehicle must have a Colchester City Council approved electronic payment terminal (see 21.2 below) which can accept an electronic payment.

## 21.2 Approved Electronic Payment methods

BarclayElectronic payment/App

[Cab:app Ltd](#) (Miura M010)

[Cabvision Network Ltd](#) (Ingenico)

Elavon

[Farepay Ltd](#) (Miura M010)

[Ingenico](#)

[iZettle](#) (Miura M010)

LoPay

[Payataxi](#) (Miura M010)

[PayPal](#) (Miura M010)

SquareApp

[SumUp](#) (Miura M010)

[Viva Wallet](#)

[Worldpay](#)

[Further Electronic payment methods/Apps may be used upon application to, and approval by, the Council.](#)

21.3 The Council considers the electronic payment facility to be part of the vehicle and as such it must be working at all times.

21.4 The vehicle must display the Colchester City Council approved stickers on both the rear passenger window and inside the vehicles indicating that debit and credit card payments are now taken.

21.5 If the means of making electronic payments is not working this must be reported immediately to the Council. The Council must be notified when any problems have been resolved and the payment facility is again operational.

21.6 If there is concern that the electronic payment facility may not work at the destination point, a request can be made to pay in advance for the journey.

**170. National Register of Taxi Licence Revocations and Refusals**

The Committee considered a report setting out the responses to the consultation on the Council's proposed Policy on the use of the National Register of Taxi Licence Revocations and Refusals (NR3), which if approved would form an appendix to the Council's Hackney Carriage and Private Hire Licensing Policy.

Sarah White, Licensing Team Leader, attended the meeting to present the report and assist the Committee with its deliberations. The Committee was asked to consider the responses that had been received in relation to the Council's recent consultation on the Council's proposed Policy on the use of the National Register of Taxi Licence Revocations and Refusals (NR3). The responses received had been broadly supportive of the proposal, and the Committee was asked to note that the use of the NR3 database would be a statutory requirement from April 2023.

The Committee considered that the proposal was eminently sensible, and it noted that the use of the database would be required across the country and would form part of the application process for both new and existing licensed drivers.

*RECOMMENDED TO COUNCIL* that:

- the proposed National Register of Taxi Licence Revocations and Refusals (NR3) Policy be adopted for inclusion in the Hackney Carriage/Private Hire Licensing Policy.



# NR3 Policy

Appendix 4

This Policy sets out how the Council will use the National Register of Taxi Licence Revocations and Refusals (NR3). The register provides licensing authorities with the facility to share details of individuals who have had a hackney carriage or private hire licence revoked, or an application for one refused. The NR3 does not extend to vehicle or operator licensing decisions.

## 1. Introduction

1.1 The key consideration of the Council in carrying out its functions in relation to the licensing of hackney carriage and private hire drivers is the safety of the travelling public.

1.2 The Council must not grant a driver's licence unless it is satisfied that the applicant is a fit and proper person to hold a licence. The Council is also entitled to suspend or revoke a licence if there is evidence to suggest that the individual is not a fit and proper person to hold a licence. The fit and proper test is an enduring duty placed on the Council which is relevant both at first licensing and for the lifetime of the licence.

## 2. General

2.1 In this Policy, the 'first authority' refers to a licensing authority which has made a specific entry onto the NR3. The 'second authority' refers to a licensing authority which is seeking more detailed information about the entry.

2.2 The term licence is used to refer to a hackney carriage drivers' licence, a private hire drivers' licence, and a combined dual licence. Any reference to a 'new' licence should also be read to include the 'renewal' of a licence.

## 3. Overarching principles

3.1 The Council will access and use information contained in the NR3 in accordance with this Policy. The NR3 contains information relating to the refusal to grant, or revocation of a licence. This information is important in the context of any subsequent application to another authority for a licence by a person who has previously had their licence refused or revoked.

3.2 The Council has registered to use and enter information onto the NR3. This means that when an application for a licence is refused or an existing licence is revoked, that information will be placed on the NR3.

3.3 Access to the NR3 is only provided where a licensing authority is a current member of the National Anti-Fraud Network and has signed data processor and data sharing agreements.

# NR3 Policy

3.4 When an application for a new drivers' licence or renewal of an existing drivers' licence is received, the Council will search the NR3. The search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with this Policy. If details are found that appear to relate to the applicant, a request will be made for further details from the first authority that entered that information. The applicant will then be notified.

3.5 Any information that is received from another authority in respect of an application for a licence will only be used in relation to the applications and its determination and will not be used for any other purpose. Any information received relating to the applicant will only be kept for as long as is necessary to determine the outcome of their application. The period it takes to determine any application is variable and often depends on the applicant's circumstances and timely responses to further questions. Once an application is determined there may be a further period where it is necessary to retain information for purposes of notifying the applicant of the outcome their application, and for any period to accommodate an appeal against the Council's determination should the applicant so choose.

3.6 The data will be held securely in accordance with the Council's general policy on the secure retention of personal data which is available on the Council's website.

## 4. Requesting further information relating to an entry on the NR3

4.1 When an application is made for the grant of a new, or renewal of a licence the Council will check the NR3.

4.2 The Council will make and then retain a clear written record of every search that is made of the NR3. This will detail:

- the date of search
- the name or names searched
- the reason for the search – new application or renewal
- the results of the search
- the use made of the results of the search – (this may be entered to the NR3 at a later date once the application and appeal process has been fully concluded)

Search records will not be combined with other records and will be retained for a period of 25 years.

4.3 If the Council's search of the NR3 reveals a potential match, a request for further information will then be made to the first authority that made the entry. The request will be made in writing in accordance with the standard form (see Appendix 1). The form requesting further information used by the Council will be posted or emailed to the contact address of the first authority that made the NR3

# NR3 Policy

entry. The application process will thereafter pause until a suitable response to that request has been received by the Council.

## 5. Responding to a request for further information relating to an entry on the NR3

5.1 If the Council receives a request as first authority for further information from a second authority a clear written record of the request will be made. A record of the Council's response arising out of the request from the second authority will be retained for a period of 25 years.

5.2 The Council will then determine how to respond to the request. The Council will not simply provide information as a blanket response to every request.

5.4 Any disclosure must be considered and proportionate, taking into account the data subject's rights together with the role and responsibilities of a licensed driver. Whilst data is held on the NR3 for a period of 25 years, the Council (the first authority) will not disclose information relating to every entry. Each application will be considered on its own merits.

5.5 Where the reason for refusal to grant or revoke a licence relates to a conviction, or caution, consideration will be further given to the full circumstances of the case prior to disclosure. Any information about convictions and cautions will be shared in accordance with this Policy by virtue of Part 2 of Schedule 1, Data Protection Act 2018 (DPA 2018). In so far, processing of data is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law.

5.6 In fulfilment of a request for further information from a second authority, the relevant officer will record what action was taken and why. The Council will make and then retain a clear written record of every decision that is made as a result of a request from another authority. This will detail:

- the date the request was received
- how the data protection impact assessment was conducted and its conclusions
- the name or names searched
- whether any information was provided
- if information was provided, why it was provided, and details of any further advice obtained before the decision was made to make disclosure
- if information was not provided, why it was not provided, and details of any further advice obtained before the decision was made
- how and when the decision and any information was communicated to the requesting authority

# NR3 Policy

This record will not be combined with any other records and will be retained for a period of 25 years.

## 6. Using information obtained arising out of a request to a first authority

6.1 If the Council receives information arising out of a request that has been made to a first authority, it will take it into account (together with other information obtained as detailed in this Policy) when determining an application for the grant or renewal of a drivers' licence.

6.2 The Council will make and then retain a clear written record of the use that is made of the results of its request and the subsequent determination of the application for a licence (this information may be added to the NR3)

6.3 Information that is received may warrant significant weight being attached to it, but it will not be the sole determinant for any decision that the Council makes in relation to the application for which it was obtained.

## 7. New and Historical Data

7.1 The Council will upload new and historical revocation and refusal data to the NR3, and which will be limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective

7.2 The Council will begin using the NR3 from \_\_\_\_\_. This means from that point:

- applications for new hackney carriage/PHV licences and for renewals will be checked on the NR3
- where an existing licence is revoked, or an application for renewal or a new licence is refused, this will be recorded on NR3

January 2023

# NR3 Policy

Appendix 1

## Information Disclosure Form

This form is submitted following a search of the National Register of Refusals and Revocations (NR3).

Colchester City Council: .....

Requestor authority reference number: .....

Name of licensing authority from which information is sought: .....

Name of individual in respect of whom the request is made: .....

Decision in respect of which the request is made: Refusal / revocation

Other details for this record: .....

Address: .....

Driving licence number: .....

NI number: .....

Reference number: .....

### Declaration by requesting authority:

The authority hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of taxi / PHV driver licences are fit and proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest. This request is being made under Schedule 2, Part 2 (7) of the Data Protection Act 2018.

The information provided below will only be processed, used and saved by the authority in connection with this particular application and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and PHV driver licences, and will be retained in accordance with the Authority's retention policy relating to the provision of such information.

To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request can be accessed on the Council's website.

# NR3 Policy

Signed: .....

Name: .....

Position: .....

Date: ..... (For completion by providing authority)

Further information to support the decision recorded on NR3 in respect of the above named individual:

## **Declaration by providing authority:**

The authority hereby confirms that it has conducted a data protection impact assessment.

It also confirms that the information above is accurate and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals and Revocations was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above named authority accordingly.

The authority also confirms that, as part of the basis for securing, retaining or applying for a taxi / PHV driver licence, the above named individual has been made aware of to the fact that this information will be shared, in accordance with all relevant data and privacy requirements.

Signed: .....

Name: .....

Position: .....

Date: ....

<b>Report of</b>	<b>Head of Governance and Monitoring Officer</b>	<b>Author</b>	<b>Andrew Weavers</b> ☎ 282213
<b>Title</b>	<b>Updates to the Constitution</b>		
<b>Wards affected</b>	Not applicable		

**1. Executive Summary**

1.1 This report contains updates to the Constitution which reflect revised governance and reporting arrangements in relation to Council owned companies.

**2. Recommended Decision**

2.1 To approve the updated Governance and Audit Committee Procedure Rules and Articles attached to this report.

**3. Reason for Recommended Decision**

3.1 To ensure that the Constitution reflects the revised governance and reporting arrangements in relation to Council owned companies.

**4. Alternative Options**

4.1 None presented.

## 5. Background Information

- 5.1 The Constitution requires updating to reflect recent recommendations and suggested good practice in relation to how the Constitution refers to Council owned companies and how they are held accountable by the Council as shareholder.
- 5.2 Following on from recent reviews it became apparent that the current governance arrangements, whilst fit for purpose, were not contained in the Constitution in enough detail nor was there consistency of approach or transparency of how each of the Council owned companies i.e., Colchester Borough Homes Limited and Colchester Commercial (Holdings) Limited were held to account. As part of the Interim Shareholder Team arrangements, it was agreed that the Constitution required amending to ensure that there was consistency of approach between the Council and its companies and transparency in the reporting and accountability arrangements for the Council as shareholder.
- 5.3 The suggested changes are being implemented incrementally. The first change which was implemented from the Annual Meeting. The Leaders Scheme of Delegation to Cabinet Members now makes it clear that it is a reserved function of the Leader to be the shareholder for Colchester Commercial (Holdings) Limited and Colchester Borough Homes Limited. The Leader also appoints and can remove directors to the Boards of Colchester Commercial (Holdings) Limited and Colchester Borough Homes Limited.
- 5.4 The Governance and Audit Committee has been appointed by the Council to be the shareholder committee for Colchester Commercial (Holdings) Limited, but no shareholder committee has been appointed for Colchester Borough Homes Limited. It is essential from a governance aspect that all Council owned companies are treated in a consistent manner. Accordingly, it is proposed that the terms of reference of the Governance and Audit Committee are amended to enable it to act as the shareholder committee for all Council owned companies. The existing and proposed revised terms of reference and wording are detailed below. The chair of Governance and Audit Committee has been consulted and is content with the proposals.

<b>Existing</b>	<b>Proposed</b>
<p><b>Shareholder Committee for Colchester Commercial (Holdings) Limited</b></p> <p>(8) Consider and review the activities and financial performance of Colchester Commercial (Holdings) Limited and its subsidiary companies i.e. Colchester Amphora Housing, Colchester Amphora Energy and Colchester Amphora Trading</p> <p>(9) Receive, review and recommend to Cabinet Colchester Commercial (Holdings) Limited's business plans (including its subsidiary companies) annually and to review performance including delivery of the dividend.</p> <p>(10) Monitor, challenge and make recommendations to Cabinet regarding Colchester Commercial (Holdings) Limited and its subsidiary companies.</p>	<p><b>Shareholder Committee for Council owned companies</b></p> <p>(9) To consider, review and make recommendations to Cabinet regarding:</p> <p>(a) the activities and financial performance of Colchester Commercial (Holdings) Limited, its subsidiary companies and Colchester Borough Homes Limited.</p> <p>(b) an annual review of the business plans of Colchester Commercial (Holdings) Limited (including its subsidiary companies), the performance of the companies including delivery of the dividend.</p> <p>(c) the Annual Report, Governance Statement and performance of Colchester Borough Homes Limited.</p>

<p>(11) Make recommendations to Cabinet on how it should exercise the functions flowing from its ownership of shares in Colchester Commercial (Holdings) Limited and its subsidiary companies.</p>	<p>(d) how the Council should exercise its role as shareholder of Council owned companies.</p> <p>(e) the creation of and arrangements for any future Council owned company including activities and performance.</p>
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- 5.5 The revised wording makes it clear that the Governance and Audit Committee when acting as the shareholder committee makes recommendations back to Cabinet as the shareholder function is an executive function. Paragraph (c) makes specific reference to Colchester Borough Homes Limited and is a function previously performed by the Scrutiny Panel. At its meeting on 6 June the Panel discussed the proposal and was content with this function being transferred to the Governance and Audit Committee. The Scrutiny Panel will still be able to scrutinise the Council companies if the Panel so wishes and is agreed to be included in its work programme. The purpose of Paragraph (e) is to include any future Council owned companies. Revised Governance and Audit Committee Procedure Rules are attached at Appendix A to this report.
- 5.6 Governance and Audit Committee Procedure Rule 3(3) has been amended to include reference to councillors who are appointed to the board of Colchester Borough Homes Limited not being able to be a member or substitute member of the Committee in order to be consistent with the current arrangement with councillors who are appointed to the board of Colchester Commercial (Holdings) Limited.
- 5.7 In order for the members of the Governance and Audit Committee to undertake their role as a shareholder committee it is proposed that additional training be offered.
- 5.8 The Articles contained in the Constitution detail how the Council's business is conducted and how decisions are taken. The current version of the Articles does not refer to Council owned companies. Accordingly, it is proposed that a new Article 16 is included entitled "Council Companies". The purpose of this Article is to detail arrangements in relation to control, accountability, decision making and access to information for both the Council and the companies. Revised Articles are attached at Appendix B to this report.
- 5.9 The governance arrangements in relation to Council owned companies is being kept under review and further documents will be presented to Full Council in due course to be included in the Constitution.

## 6. Standard References

- 6.1 There are no particular references to the Strategic Plan; Equality, Diversity and Human Rights implications consultation considerations or financial; community safety; health and safety, risk management or environmental and sustainability implications.

## 7. Publicity Considerations

- 7.1 The updates to the Constitution will be published on the Council's website.

## Appendices

Appendix A – amended Governance and Audit Procedure Rules.

Appendix B – amended Articles.

# Colchester City Council

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## Governance and Audit Committee Procedure Rules

### INTRODUCTION

Under the Local Government Act 1972 and Local Government Act 2000 (as amended by the Localism Act 2011) the Council is required to establish committees to undertake non-executive functions under powers delegated from the Full Council.

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

#### 1. Application of the Meetings General Procedure Rules

- (1) The Meetings General Procedure Rules shall apply to all meetings of the Governance and Audit Committee except as varied by these Governance Committee and Audit Committee Procedure Rules.

#### 2. Terms of Reference of the Governance and Audit Committee

##### Accounts, Audit, Risk and Counter Fraud

- (1) To consider and approve the Council's Statement of Accounts in accordance with the Accounts and Audit Regulations 2015.
- (2) As part of the Council's governance arrangements, to consider the findings of the annual review of governance (which includes a review of the effectiveness of the system of internal audit) and approve the signing of the Annual Governance Statement by the Leader of the Council and the Chief Executive in accordance with the Accounts and Audit Regulations 2015.
- (3) To have an overview of the Council's control arrangements including risk management and in particular with regard to the annual audit plan, the audit work programme and progress reports and to make recommendations to Cabinet as appropriate.
- (4) To consider arrangements for counter-fraud and corruption, whistleblowing including approval of the Anti- Fraud and Corruption and Whistleblowing policies and the outcomes of any investigations in relation to these policies.
- (5) To review the Council's external auditor's annual audit letter.

##### Miscellaneous regulatory matters

- (6) To make recommendations to Council on the Council's functions contained in Parts D (elections), E (name and status of areas and individuals), F (making, amending, revoking, re-enacting or enforcing byelaws) G (promotion or opposing local or personal bills), of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).
- (7) To determine Community Governance Reviews.

- (8) An overview of the Council's complaint handling procedure and Local Government and Social Care Ombudsman investigations.

**Shareholder Committee for Council owned companies**

- (9) To consider, review and make recommendations to Cabinet regarding:
- (a) the activities and financial performance of Colchester Commercial (Holdings) Limited, its subsidiary companies and Colchester Borough Homes Limited.
  - (b) an annual review of the business plans of Colchester Commercial (Holdings) Limited (including its subsidiary companies) and performance of the companies including delivery of the dividend; and
  - (c) the Annual Report, Governance Statement and performance of Colchester Borough Homes Limited.
  - (d) how the Council should exercise its role as shareholder of Council owned companies.
  - (e) the creation of and arrangements for any future Council owned company including activities and performance.

**Standards**

- (10) Promoting and maintaining high standards of conduct by Members and Co-opted Members of the Council.
- (11) Advising the Council on the adoption or revision of the Members' Code of Conduct.
- (12) Advising and assisting Parish Council(s) and Councillors to maintain high standards of conduct.
- (13) To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the Council's assessment criteria.
- (14) Receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Members' Code of Conduct.
- (15) Advising, training or arranging to train Members and Co-opted Members on matters relating to the Members' Code of Conduct.
- (16) Assisting Councillors and co-opted Members to observe the Members' Code of Conduct.
- (17) To create a Hearings Sub-Committee to hear and determine complaints about Members and Co-opted Members referred to it by the Monitoring Officer.
- (18) To conduct hearings on behalf of the Parish and Town Councils and to make recommendations to Parish and Town Councils on improving standards or actions following a finding of a failure by a Parish or Town Councillor to comply with the Code of Conduct.
- (19) To inform the Full Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints.
- (20) Advising the Council upon the contents of and requirements for codes/ protocols/ other procedures relating to standards of conduct throughout the Council.

- (21) To grant dispensations after consultation with the Independent Person pursuant to Sections 33(2) (b), (c) and (e) of the Localism Act 2011.
- (22) To hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to Sections 33(2)(a) and (d) of the Localism Act 2011.
- (23) To make recommendations to Council regarding the appointment of Independent Persons in accordance with section 28 (7) and (8) of the Localism Act 2011.

#### **General**

- (24) Review of the Constitution including governance issues around formal meetings, processes and member training and to make recommendations to Council.

### **3. Composition of the Committee**

- (1) The Committee shall comprise seven Councillors, all of whom shall have undertaken suitable training in relation to statement of accounts and Members Code of Conduct in respect of which the following criteria shall apply:
  - Attendance must be at the training session provided within the context of the Member Development Programme.
  - Attendance must be for the duration of each training session, at least every other year.
  - Membership of the Committee does not provide any exemption from attendance at a training session.
  - A record of attendance at training sessions shall be maintained by Democratic Services.
- (2) When considering standards issues, up to three Parish Representatives and the Independent Persons will also be invited to attend.
- (3) A Councillor who is currently appointed by the Council to the Board of Colchester Commercial (Holdings) Limited or the Board of Colchester Borough Homes Limited as a director cannot be a member or substitute member of the Committee.

### **4. Committee meetings – when and where?**

- (1) Meetings may be called from time to time as and when appropriate. The Committee shall meet at the Town Hall, High Street, Colchester or another location to be agreed by the Leader of the Council.
- (2) Meetings of the Committee shall be arranged by the Proper Officer who will normally give a minimum of five clear working days' notice and comply with the Access to Information Rules set out in Part 4 of this Constitution.

### **5. Public or private meetings of the Committee?**

- (1) Meetings of the Committee will be held in public except in so far as the matters for decision relate to issues which can be dealt with in private in accordance with the Access to Information Rules set out in Part 4 of this Constitution.

### **6. Quorum**

- (1) The quorum for the Committee shall be one half of the total membership, rounded up in the event of an odd number of members, provided that the minimum quorum shall be three. The quorum must be maintained for the duration of the meeting.

## **7. Voting**

- (1) All members of the Committee are entitled to vote at meetings with the exception of any Parish Representatives and the Independent Persons who may be present for standards items.

## **HOW ARE THE COMMITTEE MEETINGS CONDUCTED?**

### **8. Who presides?**

- (1) The meeting will be chaired by a Chairman who shall be appointed by the Committee on an annual basis. In the absence of the Chairman the members present may appoint a Chairman for the meeting from those present.

### **9. Who may attend?**

- (1) Members of the public may attend meetings of the Committee except when exempt or confidential information is being considered where the press and public, may be excluded by resolution of the Committee in accordance with the Access to Information Rules contained in Part 4 of this Constitution.

### **10. What business?**

- (1) Meetings of the Committee will include the following business:
  - (a) Have Your Say!
  - (b) Consideration of the minutes of the last meeting;
  - (c) Urgent Items;
  - (d) Declarations of interest, if any;
  - (e) Consideration of any matter within the Committees Terms of Reference.

### **11. Recording of Decisions**

- (1) All decisions will be made by a simple majority of the members of the Committee present at the meeting.
- (2) Following a meeting of the Committee at which a report (whether oral or in writing) has been received and a recommendation has been made, the Proper Officer shall ensure that a written statement is kept which must include the following: -
  - (a) record of the decision;
  - (b) record of reasons for the decision;
  - (c) details of alternative options considered;
  - (d) record of any conflict of interest declared; and
  - (e) any dispensation granted as appropriate.

## **12. PROCEDURE FOR HEARINGS SUB-COMMITTEE MEETINGS**

- (1) The Council has agreed the formation of a Hearings Sub-Committee of the Governance and Audit Committee to hear and determine allegations that Councillors have failed to comply with the Members' Code of Conduct.
- (2) Hearing Sub-Committee meetings will be conducted in accordance with the procedure set out at Appendix 1.

## **PROCEDURE FOR HEARINGS SUB-COMMITTEE MEETINGS**

### **1. Terms of reference of the Hearings Sub-Committee**

- (1) To conduct a Hearing into an allegation that a Councillor or Co-opted Member has breached the Authority's Code of Conduct.
- (2) Following a Hearing, make one of the following findings:
  - (a) That the Councillor has not failed to comply with the Members' Code of Conduct and no further action needs to be taken in respect of the matters considered at the Hearing; or
  - (b) That the Councillor has failed to comply with the Members' Code of Conduct but that no further action needs to be taken in respect of the matters considered at the Hearing; or
  - (c) That the Councillor has failed to comply with the Members' Code of Conduct and that a formal resolution should be made to the Authority.
- (3) The Sub-committee may recommend to the Authority any action or combination of actions available to it (details of which are contained in Schedule A to these Rules), or recommend any informal resolution or combination of informal resolutions as are available to it by law or policy.
- (4) After making a finding the sub-committee shall publish its findings within 7 working days of the Hearing.

### **2. Composition of the Sub- Committee**

The Committee shall comprise of:

- (1) Up to five City Council Councillors; and
- (2) One Parish or Town Councillor (if the matter relates to a Parish or Town Council); and
- (3) An Independent Person appointed by the Council in accordance with the Localism Act 2011.

### **3. Sub- Committee meetings – when and where?**

- (1) Meetings may be called from time to time as and when appropriate. The Sub-Committee shall meet at the Town Hall, High Street, Colchester.
- (2) Meetings of the Sub-Committee shall be summoned by the Proper Officer who will normally give a minimum of five clear working days' notice and comply with the Access to Information Rules set out in Part 4 of this Constitution.

#### **4. Public or private meetings of the Sub-Committee?**

- (1) Meetings of the Sub-Committee will be held in public except in so far as the matters for decision relate to issues which can be dealt with in private in accordance with the Access to Information Rules set out in Part 4 of this Constitution.

#### **5. Quorum**

- (1) The quorum for the Sub-Committee shall be three City Councillors which must be maintained for the duration of the meeting.

#### **6. Voting**

- (1) Only the City Council Councillors are entitled to vote at meetings.

#### **7. HOW ARE THE SUB- COMMITTEE MEETINGS CONDUCTED?**

##### **Who presides?**

- (1) The meeting will be chaired by a Chairman who shall be appointed by the Sub-Committee from those present.

##### **Who may attend?**

- (2) Members of the public (including Councillors who are not members of the Sub-Committee) may attend all meetings of the Sub-Committee except when exempt or confidential information is being considered where the press and public, may be excluded by resolution of the Sub-Committee in accordance with the Access to Information Rules contained in Part 4 of this Constitution.

##### **What business?**

- (3) Ordinary meetings of the Sub- Committee will include the following business:
  - (a) Consideration of the minutes of the last meeting;
  - (b) Urgent Items;
  - © Declarations of interest, if any;
  - (d) Consideration of any matter within the Sub-Committees' Terms of Reference.

##### **Recording of Decisions**

- (4) All decisions will be made by a simple majority of the City Councillors of the Sub-Committee present at the meeting.
- (5) Following a meeting of the Sub-Committee at which a report (whether oral or in writing) has been received and a recommendation has been made, the Proper Officer shall ensure that a written statement is kept which must include the following: -
  - (a) record of the decision;
  - (b) record of reasons for the decision;
  - © details of alternative options considered; and
  - (d) record of any conflict of interest declared

# Colchester City Council

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## Article 1 – The Constitution

### INTRODUCTION

This Constitution has been produced in accordance with section 9P of the Local Government Act 2000 as amended by the Localism Act 2011. Apart from describing the structure of the Council, it sets out the ways in which it takes the many decisions it makes annually which affect the lives of the citizens of the City of Colchester.

This Constitution should be interpreted in the light of all other relevant legislation.

### 1.01 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

### 1.02 The Constitution

This Constitution is the Constitution of the Colchester City Council.

### 1.03 Purpose of the Constitution

The Constitution provides a framework which:

- (a) enables the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) supports the active involvement of citizens in the process of local authority decision-making;
- (c) helps Councillors represent their constituents more effectively;
- (d) enables decisions to be taken efficiently, effectively and with transparency;
- (e) creates a powerful and effective means of holding decision-makers to public account;
- (f) ensures that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensures that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) provides a means of improving the delivery of services to the community.

### 1.04 Principles of the Constitution

In seeking to reinforce local democracy, the Constitution is founded on the following principles: -

- (a) The creation of an easily understood system of political management which will provide a clear and accountable leadership balanced and challenged in its activities by other Councillors.

- (b) The establishment of an open and streamlined decision making process within which the views of local people are given full consideration.
- (c) The Council as leader in the local community, working on behalf of the citizens of Colchester.

### **1.05 Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

### **1.06 Flexibility and Review**

This Constitution is intended to be sufficiently flexible to meet changing needs and will be reviewed regularly to ensure that it continues to meet these basic principles, in the light of experience.

The following sections give information on the structure of the Council and a framework of rules to meet the central principles.

### **1.07 Executive Arrangements**

The following parts of this Constitution shall constitute the executive arrangements:

1. Article 6 (Overview and Scrutiny of decisions) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules;
3. Article 9 (Area Working Arrangements);
4. Article 10 (Joint Arrangements);
5. Article 12 (Decision Making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions).

# Colchester City Council

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## Article 2 – Members of the Council

### INTRODUCTION

This Article sets out the composition of the City Council, eligibility to stand for election as a Councillor and the form of election to be used.

The Article contains a section on the roles and functions of Councillors.

The Article also deals with the rights and duties of Councillors (otherwise known as Members), especially as they affect access to land, buildings, documents and information and any confidentiality requirements surrounding the latter.

### 2.01 Composition and Eligibility

- (a) **Composition** - The Council comprises fifty-one Councillors. One Councillor will be elected by the voters for each ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England. They serve for four years before coming up for re-election and each represents a particular area or ward of the City. As a locally elected representative, the main duty of a Councillor is as a community leader, speaking and acting for all local people, assisting them as individuals and seeing that their area gets fair and proper treatment. As a member of the Council, a Councillor represents the interests of the City of Colchester as a whole and, by serving on one or more of the bodies described below, takes decisions on the policies of and services provided by the Council.
- (b) **Eligibility** - Only registered voters of the City of Colchester or those living or working or owning land or premises in the City are eligible to hold the office of Councillor.

### 2.02 Election and term of office of Councillors

Regular elections of a third (or as near as may be) of all Councillors will be held annually on the first Thursday in May (unless Parliament determines otherwise). There will be no regular election when there are elections to Essex County Council. The term of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

### 2.03 The Mayor

The Mayor is the "First Citizen" of the City and a Councillor. The post should not be confused with that of an elected mayor who, under the organisational arrangements adopted in some council's, is the political leader.

In Colchester, the Mayor is the ceremonial head of the Council and is elected by the other members of the Council at the Annual Meeting to serve for twelve months. The main roles of the Mayor are to represent the Council and the City at official functions both at home and abroad and to chair meetings of the full Council.

### 2.04 Roles and Responsibilities of all Councillors

#### Purpose

- (a) participate fully in the good governance of the City;
- (b) contribute actively to the formation and/or scrutiny of the Council's policies, budgets, strategies and service delivery;
- (c) represent effectively the interests of the Ward for which the Councillor was elected and deal promptly with constituents' enquiries and representations;
- (d) promote Council engagement with all citizens and groups and ensure that there are opportunities for all views to be heard;
- (e) champion the continuous improvement of the quality of life of the community in terms of equity, economy and environment;
- (f) ensure that the Council's resources are used to achieve the maximum benefit for the people of Colchester;
- (g) represent the Council effectively, when appointed to an outside body, such as a charitable trust or association, etc;
- (h) act at all times with probity and propriety in the best interest of the Council and in accordance with the Members' Code of Conduct.

### **Duties and Responsibilities**

Councillors shall be responsible for the following duties and responsibilities: -

- (a) To fulfil the statutory and locally determined requirements of an elected member, including compliance with all relevant codes of conduct, and participation in those decisions and activities reserved to the full Council.
- (b) Participate effectively as a member of any Committee or Panel to which the Councillor is appointed, including related responsibilities for the services falling within the Committee's or Panel's terms of reference, and its liaison with other public bodies to promote better understanding and partnership working.
- (c) Participate in the activities of an outside body to which the Councillor is appointed, providing two-way communication between the organisations and representing the policies and practices of the Council. Also, for this purpose, to develop and maintain a working knowledge of the Council's policies and practices in relation to that body and of the community needs and aspirations in respect of that body's role and functions.
- (d) Participate in the scrutiny or performance review of the services of the Council including, where the Council so decides, the scrutiny of policies and budget, and their effectiveness in achieving the strategic objectives of the Council.
- (e) Participate, as appointed, in consultative processes with the community and with other organisations.
- (f) Provide a link between the Council and the community, through the various forums available.

- (g) Develop and maintain a working knowledge of the Council's services, management arrangements, functions/duties and constraints, and to develop good working relationships with relevant officers of the Authority.
- (h) Develop and maintain a working knowledge of the other organisations and services which serve the City.
- (i) Contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the democratic process.
- (j) Maintain confidentiality in all relevant Council business.
- (k) Find a suitable substitute and to brief them on the meeting due to be attended on occasions when personal attendance is not possible and where substitutes are permissible.
- (l) Identify individual learning and development needs and participate fully in training opportunities provided.
- (m) Maintain the highest standards of conduct and ethics in accordance with the Members' Code of Conduct.

## **2.05 Conduct**

Councillors will at all times observe the Members' Code of Conduct and the Member / Officer Protocol contained in Part 5 of this Constitution.

## **2.06 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

## **2.07 Role of the various meetings of the Council**

Each of the various meetings of the Council has a role to play within the Authority.

### **Full Council**

The main role of the Full Council is to decide the key policies and plans within which the Council's functions will be carried out, and to set the Council's budget and Council Tax levels and approve the Constitution.

The Committees and Panels are appointed annually by the Council. The Leader is appointed by the Council for a term of four years (or for the remainder of their term in office as a Councillor whichever is the shorter). The Leader appoints the Deputy Leader and the Cabinet. Reports on new or existing policies may be initiated or drawn up by the Cabinet as a whole or by an individual Cabinet member, a Panel of the Cabinet or a Panel.

The Cabinet makes recommendations on policy to the Full Council, although in the case of non-statutory plans and strategies (i.e., those that do not fall within the Policy Framework of the Council), the Panels may report direct to the Full Council. It also receives reports from the Scrutiny Panel and the other Panels on the effectiveness of existing policies and in both cases makes decisions in the light of the actions recommended and the views expressed. Its meetings also provide a forum for Councillors to question the Cabinet on the performance of its duties and for the public to ask questions or make statements on any of the functions of the Council.

## **Cabinet**

The Cabinet is appointed by the Leader of the Council and comprises the Leader and up to nine other Councillors. The broad areas of responsibility are as follows:-

Environment	Community Safety	Strategy
Transport	Housing	Regeneration
Employment	Health	Partnerships
Economic Development	Resources	Licensing
Leisure	Customer Services	Young People
Tourism	Planning	Procurement
Communications	Waste	Diversity
Information Technology	Rural Issues	Commercial Activities

The Leader allocates to each member of the Cabinet responsibility for one or more of the broad areas described above (known as a portfolio) and may group those areas by type or similarity of function. The Cabinet therefore forms a readily identifiable body and it will be clearer to the public who is responsible for decisions.

The Leader appoints a Councillor to act as Deputy Chairman of the Cabinet for the forthcoming municipal year. The Deputy Chairman may or may not be responsible for specific functions or areas within the Cabinet.

There is a presumption that delegations to and powers of the Cabinet are to the body as a whole and that decisions are reached collectively. However, in certain circumstances it may be appropriate for the Cabinet to authorise its members to take decisions on their own, within any limits that may be set and having received the necessary Officer advice.

The responsibility of the Cabinet is to take decisions within the budgetary and the Policy Framework set by the Full Council and must take into account the views of local people, consultees and the Scrutiny Panel. It meets regularly and in public, except for a limited amount of business such as that which is by its nature is commercially sensitive or concerns members of staff, which will be dealt with in confidence. Representatives of the media will be positively encouraged to attend, and details of meetings will be published on the Council's web site. Meetings of the Cabinet will provide an opportunity for Councillors who are not Cabinet members and the public to ask questions or make statements on any items under discussion.

### **Overview and Scrutiny**

As a balance to the powers and activities of the Cabinet, the Scrutiny Panel has been established to hold the decision-makers to account and to review the Council's policies.

The Scrutiny Panel has the following functions: -

- To review corporate strategies;
- To ensure that actions of the Cabinet accord with the policies and budget of the Council;
- To monitor and scrutinise the financial performance of the Council, initial best value reports and performance reporting, and to make recommendations to the Cabinet particularly in relation to annual revenue and capital guidelines, bids and submissions;
- To link the Council's spending proposals to the policy priorities and review progress towards achieving those priorities against the Strategic and Implementation Plans;

- To scrutinise executive decisions made by Cabinet, the North Essex Parking Partnership Joint Committee and the Colchester and Ipswich Joint Museums Committee which have been made but not implemented referred to the Panel pursuant to the Call-In Procedure;
- To scrutinise executive decisions made by Portfolio Holders and officers taking key decisions which have been made but not implemented referred to the Panel pursuant to the Call-In Procedure;
- To monitor the effectiveness and application of the Call-In Procedure, to report on the number and reasons for Call-In and to make recommendations to the Council on any changes required to ensure the efficient and effective operation of the process;
- To scrutinise the Cabinet's performance in relation to the Forward Plan;
- To monitor the financial performance of the Council and to make recommendations to the Cabinet in relation to financial outturns, revenue and capital expenditure monitors;

Its purpose is to review decisions, those policies of the Council already in place, the work of Cabinet and non-Cabinet bodies and, where appropriate or necessary, to require the Council's decision-makers to account for and justify their decisions and the way in which those decisions are implemented. They may carry out consultations with and receive evidence from the public and local organisations during reviews of those functions for which they are responsible. They may, if they wish, appoint for the duration of a review on a particular matter advisors or specialists from outside the Council who have a particular knowledge of the subject. Members of the Cabinet cannot serve on the Scrutiny Panel, although they are entitled to, and will normally, attend their meetings.

### **Planning Committee**

The Committee deals with all applications for planning permission and other development control matters and other minor highway matters that are not delegated to Officers.

### **Local Plan Committee**

The Committee deals with the Council's responsibilities relating to local planning and neighbourhood planning functions.

### **Licensing Committee**

The Committee deals with the Council's licensing functions that are not delegated to Officers.

### **Governance and Audit Committee**

The Committee deals with the consideration and approval of the Council's Statement of Accounts other regulatory matters and standards issues regarding councillor conduct. In addition, it acts as the shareholder committee for Colchester Commercial (Holdings) Limited and makes recommendations to Cabinet.

### **Policy Panel**

The Panel's role is to identify issues and legislative changes and review strategies and policies on behalf of the Cabinet and advise Cabinet accordingly.

### **Environment and Sustainability Panel**

The Panel's role is to primarily to translate the Council's climate emergency aspirations in actions and to identify and take forward environmental issues affecting the Council and the City.

### Officers of the Council

The Officers are directly employed by the Council in a variety of administrative, professional, technical and operational roles. Depending on their individual roles, they advise the Council on all aspects of its functions, put into effect decisions that are taken by Councillors, and provide to the public the services for which the Council is responsible. The Officers are grouped into service groups under Heads of Service, and all are ultimately responsible to the Chief Executive. Heads of Service are responsible for the day-to-day operation of their services. The Senior Leadership Board perform a strategic role.

### Statutory Officers

The Council is required by law to make certain statutory appointments, which must be held by different individuals.

- (a) Head of Paid Service – Pamela Donnelly, Chief Executive

The principal officer adviser to the Council, responsible for ensuring that the Council's resources and procedures are effectively and properly provided and used.

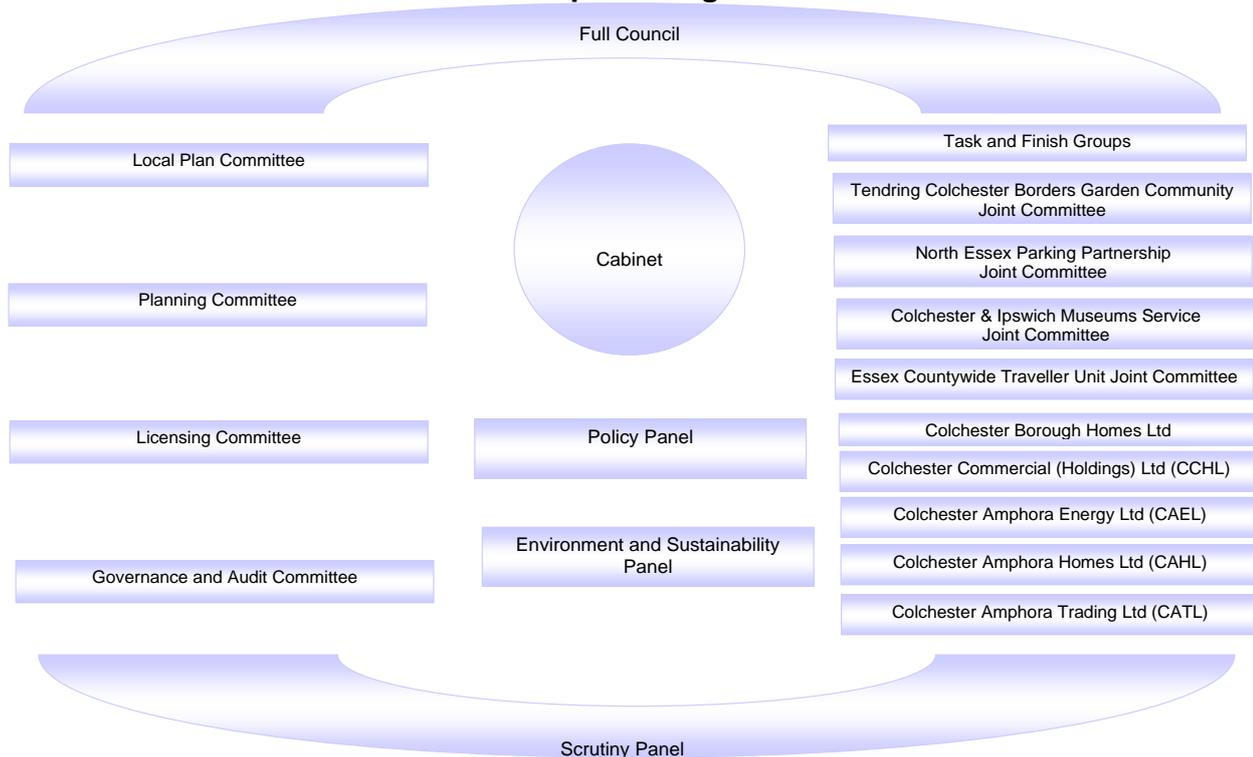
- (b) Monitoring Officer – Andrew Weavers, Head of Governance

Responsible for ensuring that the decisions and actions of the Council are lawful and in accordance with the adopted Policy Framework.

- (c) Interim Chief Finance Officer (Section 151 Officer) – Andrew Small, Director of Finance

Responsible for ensuring the proper administration of the Council's financial affairs and that actions and decisions are in accordance with the Council's budget.

### The Council's political governance structure



# Colchester City Council

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## Article 3 – The Public and the Council

### INTRODUCTION

This Article sets out what citizens can expect from the Council and what rights they have. The Constitution also shows how the Council expects to be treated by citizens in return.

This Article also sets out what local councils can expect from the Council.

### 3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- (a) **Voting** Citizens on the electoral roll for the City have the right to vote for their local Councillor(s) in local elections.
- (b) **Elected Mayor Petitions** Citizens on the electoral roll in the City have the right to sign a petition to request a referendum for an elected mayor form of Constitution. For a petition to be valid to require a referendum, the number of signatures to it must equate to not less than five percent of the electorate of the City. (As of February 2023, this amounted to 6901 signatures.)
- (c) **Petitions** Citizens who live, work or study within the City have the right to petition the Council on a function within its remit. The Council has approved a petition scheme which is set out at Part 4 of this Constitution in the Petition Procedure Rules.
- (d) **Information** Citizens have the right to:
  - (i) attend meetings of the Council the Cabinet, Committees and Panels except where exempt or confidential information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) find out from the Forward Plan what Key Decisions will be taken by the Cabinet and when;
  - (iii) see reports and background papers, and any records of decisions made by the Council, Committees, Panels and the Cabinet together with Key Decisions taken by Portfolio Holders and Officers except where these comprise confidential or exempt information; and
  - (iv) request information in the possession of the Council under the Freedom of Information Act 2000 and Environmental Information Regulations 2004, subject to defined exceptions in the Act and the Regulations
  - (v) inspect the Council's accounts and make their views known to the external auditor.
- (e) **Participation** Citizens have the right to participate in the public question time ("Have Your Say") at meetings, contribute to investigations by the Panels and to submit a petition in accordance with scheme which is set out in Part 4 of the Constitution.

- (f) **Treatment by the Council** Citizens have the right to be treated impartially and fairly by the Council.
- (g) **Human Rights Act** Citizens have the right to expect the Council to adhere to the Human Rights Act 1998.
- (h) **Complaints** Citizens have the right to complain to:
  - (i) the Council under its own complaints scheme;
  - (ii) the Local Government and Social Care Ombudsman or the Housing Ombudsman, after first raising their complaint using the Council's own complaints procedure and giving the Council a chance to respond. The Ombudsman may, however, get involved earlier in extenuating circumstances;
  - (iii) the Monitoring Officer about a potential breach by a Councillor of the Members' Code of Conduct.

### **3.02 Citizens' responsibilities**

Citizens must not be violent, abusive or threatening to Councillors or Officers and must not willfully harm things owned by the Council, Councillors or Officers.

### **3.03 Local Councils Rights**

- (a) The Council believes in the importance of working in partnership with local councils, recognising the important role they play in representing the views of local communities. The Council has agreed a Right to Consultation and Information Charter with the Colchester Association of Local Councils, and this is included in Part 8 of this Constitution.
- (b) The Council has also agreed a Charter on Development Control with the Colchester Association of Local Councils, and this is included in Part 8 of the Constitution.

# Colchester City Council

## Article 4 – The Full Council

### INTRODUCTION

The Local Government Act 2000 (as amended by the Localism Act 2011) gives the Council responsibility for approving the Policy Framework, the budget and any housing land transfer. A list of the statutory and non-statutory plans which fall within this Policy Framework appear below. The Council as a whole retains responsibility for regulatory functions and has a role in holding the Cabinet to account.

#### 4.01 The Policy Framework

The Policy Framework means the following plans and strategies:

##### (a) Mandatory Plans and Strategies:

- Crime and Disorder Reduction Strategy; (Community Safety Strategy)
- Local Transport Plan;
- Plans and strategies which together comprise the Development Plan;
- Licensing Authority Policy Statements under the Licensing Act 2003 and the Gambling Act 2005

##### (b) Plans and Strategies which the Council has adopted as part of the Policy Framework: -

4.02

The Council's Strategic Plan	Risk Management Strategy
Plan and Strategy which comprise the Housing Investment Programme	Local Code of Corporate Governance
Local Agenda 21 Strategy	Anti-Fraud and Corruption Policy
Waste Vision	Whistleblowing Policy
Genetically Modified Crops Policy	Anti-Money Laundering Policy
Homelessness Strategy	Covert Surveillance Policy
Leisure Policy Framework	Data Protection Policy
Economic Development Strategy	Acceptable Use Policy
Information, Communication and Technology Strategy	Information Security Policy
Electronic Service Delivery Strategy	Retention Policy
Personnel Policies	Income and Debt Management Policy
Travellers Policy	Health & Safety Policy
The Corporate Diversity Policy and Plan	
Safeguarding Policy	
Suicide Protocol	

The

#### Budget

The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirements, the control of its

capital expenditure and the setting of virement limits.

#### **4.03 Housing Land Transfer**

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of five hundred or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

#### **4.04 Functions of the Full Council**

Only the Full Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the Policy Framework, and the Budget;
- (c) approving any application to the Secretary of State in respect of any Housing Land Transfer;
- (d) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
- (e) electing the Mayor and Deputy Mayor at the Annual Meeting of the Council;
- (e) appointing the Leader of the Council;
- (f) agreeing and/or amending the terms of reference for Committees and Panels, deciding on their composition and making appointments to them;
- (g) appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- (h) adopting an allowances scheme under Article 2.06;
- (i) changing the name of the area, conferring the title of Honorary Alderman, High Steward or freedom of the City;
- (j) confirming the appointment of the Head of Paid Service, Monitoring Officer and Section 151 Officer;
- (k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (l) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- (m) considering the annual report from the Scrutiny Panel;
- (n) all those functions detailed in Parts C, D, E, F,G,H and I of Schedule 1 of The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended);

- (o) all other matters which, by law, must be reserved to Council including the making of a Compulsory Purchase Order;
- (p) Local Plan functions:
  - Adoption of Local Plan
  - Adoption of other Local Development Documents
  - Withdrawal of Local Plan
- (r) Community Infrastructure Levy functions:
  - Approval of charging schedule
  - Withdrawal of Charging Schedule.

#### **4.03 Council Meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

#### **4.04 Responsibility for Functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

#### **4.05 Nominations of Honorary Aldermen**

The Council has delegated to the Leader of the Council in consultation with Group Leaders, authority to determine whether nominated former councillors meet the Council's agreed eligibility criteria for being an Honorary Alderman.

The Leader of the Council in consultation with Group Leaders and the Mayor will agree a date upon which a Special Council meeting can be convened to confer the title on the nominated Honorary Aldermen.

# Colchester City Council

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## Article 5 – Chairing the Council

### INTRODUCTION

Meetings of the Council will be chaired by the Mayor.

#### 5.01 ROLE AND FUNCTION OF THE MAYOR

The Mayor and in their absence, the Deputy Mayor will have the following roles and functions:

#### 5.02 CHAIRING COUNCIL MEETINGS

The Mayor shall, if present, take the Chair at meetings of the Council. In the absence of the Mayor, the Deputy Mayor shall take the Chair. In the absence of both the Mayor and the Deputy Mayor, a Chairman for the meeting shall be elected by the Council from amongst the Councillors present.

The Mayor or in their absence, the Deputy Mayor will act as a non-political chairman of the meetings of the Council.

The chairman will have the following responsibilities:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the City;
- (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the City and the place at which members who are not on the Cabinet are able to hold the Cabinet to account;
- (d) to promote public involvement in the Council's activities; and
- (e) to be the conscience of the Council.

#### 5.03 CEREMONIAL ROLE

The Mayor is the "First Citizen" of the City and a member of the Council. The Mayor is the ceremonial head of the Council and is elected by the other members of the Council at the Annual Meeting to serve for twelve months.

The Mayor will attend civic and ceremonial functions as the Council, and the Mayor determines appropriate. The Deputy Mayor will attend in the absence of the Mayor.

The Mayor and the Deputy Mayor shall ensure that they always act in a non-political manner.

# Colchester City Council

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## Article 6 – Overview and Scrutiny of decisions

### INTRODUCTION

The overview and scrutiny function is a central element to this Constitution. The Scrutiny Panel will meet in public to discuss and scrutinise and review corporate strategies, policies and the development of policies holding the Cabinet to account for its actions, budgetary and financial performance matters. It also has a key role in considering other matters of local concern.

Overview and scrutiny apply to policies of the Council and performance of Executive functions by the Cabinet. It cannot review quasi-judicial decisions taken by the Planning Committee, the Licensing Committee and the Governance and Audit Committee.

### 6.01 Terms of Reference

The Council has appointed the Scrutiny Panel to discharge the functions conferred by section 9F of the Local Government Act 2000 (as amended by the Localism Act 2011) in relation to the matters set out in the table below.

- To ensure that the actions of the Cabinet accord with the policies and budget of the Council;
- Monitor the financial performance of the Council and link spending proposals to the Council's policy priorities and review progress;
- To review decisions of the Cabinet, the North Essex Parking Partnership Joint Committee and the Colchester and Ipswich Joint Museums Committee via the Call-In Procedure;
- To deal with any Councillor Call for Action matter;
- To act as the Council's Crime and Disorder Committee under the Police and Justice Act 2006;
- To review budgetary priorities;
- To review decisions by Cabinet and Portfolio Holders via the Call-in Procedure.

The terms of reference for the Panel are included in the Overview and Scrutiny Procedure Rules contained at Part 4 of the Constitution.

### 6.02 Functions of the Scrutiny Panel

- (a) **Overview (policy development and review)** The Scrutiny Panel may:
- (i) assist the Council and the Cabinet in the development of its budget and the Policy Framework;
  - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options of the functions of the Council;
  - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options of the functions of the Council;
  - (iv) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;

- (v) make recommendation to the Cabinet arising from the review of policies within the Panel's terms of reference.
- (b) **Scrutiny** The Scrutiny Panel may:
- (i) review and scrutinise the decisions made by and performance of the Cabinet and/or committees both in relation to individual decisions and over time;
  - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - (iii) make recommendations to the Cabinet and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
  - (iv) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Panel and local people about their activities and performance;
  - (v) question and gather evidence from any person (with their consent);
  - (vi) question members of the Cabinet, Cabinet Members and/ or Committees and Officers about their views on issues and proposals affecting the City of Colchester;
  - (vii) assist the Council and the Cabinet in the development of its budget and the Policy Framework;
  - (viii) review and scrutinise the decisions made by Cabinet Members and officers both in relation to individual decisions;
  - (ix) question members of the Cabinet and/or committees and officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
  - (x) consider any "local government matter" referred to the Panel by any councillor in the context of the Councillor Call for Action regime in accordance with the provisions of the Local Government and Public Involvement in Health Act 2007 and to make recommendations to the Council, Cabinet and or partners as appropriate.
- (c) **Crime and Disorder Committee** The Scrutiny Committee shall act as the Councils' designated Crime and Disorder Committee in accordance with the provisions of the Police and Justice Act 2006 and may:
- (i) review and scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;
  - (ii) make reports and recommendations to the Council or the Cabinet with respect to the discharge of those functions.
- (d) **Annual Report** The Scrutiny Panel shall report annually to the Full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

- (e) **Officers** To exercise overall responsibility for the work programme of any Officers employed to support its work.

### **6.03 Proceedings of the Scrutiny Panel**

The Scrutiny Panel will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

# Colchester City Council

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## Article 7 – The Cabinet

### INTRODUCTION

The Cabinet (or Executive) is at the heart of the day-to-day decision-making process. It also has a key role in proposing the budget and the Policy Framework to the Council. Colchester City Council's Executive comprises the Leader and Cabinet Executive (England) model in accordance with section 9C (3) of the Local Government Act 2000 (as amended by the Localism Act 2011).

#### 7.01 Role

The Cabinet will lead the implementation of Council policy within the Council's budget and the Policy Framework. In doing this the Cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

#### 7.02 Form, Appointment and Composition

The Cabinet will consist of the Leader of the Council together with at least two, but not more than nine, additional Councillors (including the Deputy Leader) as the Leader shall determine from time to time.

#### 7.03 Appointment of the Leader of the Council

The Leader will be a Councillor appointed by the Council at the Annual Meeting for a term of four years (or for the remainder of their term of office as a Councillor if that is a shorter period) and holds office for that period ending with the day of the post-election Annual Meeting, unless the Leader within that period:

- (a) resigns from the office of Leader by giving notice in writing to the Mayor, copied to the Chief Executive; or
- (b) ceases to be a member of the Council; or
- (c) is removed from the office as Leader by resolution of the Council following a vote upon which at least two thirds have voted in favour of the Leader being removed from office. If such a resolution is passed, a new Leader may be elected:
  - (i) at the meeting at which the Leader was removed from office; or
  - (ii) at a subsequent meeting.

The person appointed to fill the vacancy shall hold office for the remainder of the original term subject to earlier termination as provided for above.

If the Council fails to appoint a Leader the Chief Executive, in consultation with the Group Leaders, shall discharge the functions of the Leader in the interregnum until the Council appoints a Leader.

#### **7.04 Appointment of the Deputy Leader of the Council**

The Leader will appoint a member of the Cabinet to act during any period of absence, to be known as the Deputy Leader who will carry out the role and duties of the Leader until the new Leader is elected by the Council.

The Deputy Leader will hold office for the duration of the Leader's term of office unless within that period they:

- (a) resign from the office of Deputy Leader by giving notice in writing to the Leader, copied to the Chief Executive; or
- (b) ceases to be a member of the Council; or
- (c) is removed from office by the Leader.

Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another person in their place.

If for any reason:

- (a) the Leader is unable to act or the office is vacant; and
- (b) the Deputy Leader is unable to act or the office of Deputy Leader is vacant

the Cabinet must act in the Leader's place or arrange for a Cabinet Member to act in their place.

#### **7.05 Appointment of Cabinet Members**

The Leader shall appoint the members of the Cabinet who will hold office for the duration of the Leaders term of office unless within that period:

- (a) they resign from office by giving notice in writing to the Leader, copied to the Chief Executive; or
- (b) they cease to be Members of the Council; or
- (c) are removed from office by the Leader.

#### **7.06 Vacancies**

Upon the occurrence of a vacancy in the office of a member of the Cabinet the vacancy shall be filled by the Leader.

#### **7.07 Roles and Responsibilities of the Leader of the Council**

The following duties and responsibilities are in addition to the functions and duties of Councillors as set out in Article 2.04 and are in addition to the role of a Cabinet Member contained in Article 7.

##### **Purpose**

- (a) Provide effective political leadership and strategic direction for the Council;
- (b) Ensure effective corporate governance;

- (c) Provide effective stewardship of the Council and its resources;
- (d) Be an advocate of the Council;
- (e) Chair the Cabinet and ensure that it achieves its terms of reference;
- (f) Ensure that the Council delivers high quality, value for money services;
- (g) Ensure that the Council delivers on its Strategic Plan objectives; and
- (h) Promote the benefits of partnership working.

### **Duties and Responsibilities**

- (a) Provide political leadership to the Council, including proposing the Policy Framework within which the Council will operate and to take such executive action as may be delegated by the Council;
- (b) ensure effective Corporate Governance;
- (c) lead the Cabinet and be responsible for the Council's corporate and resource strategy;
- (d) appoint or dismiss Cabinet Members and to determine the allocation of portfolios for subsequent notification to the Council;
- (e) ensure that the Cabinet achieves its terms of reference both collectively and as individual portfolio holders;
- (f) chair Cabinet meetings and to prepare the Forward Plan;
- (g) exercise Executive functions not allocated to either the Cabinet or to Cabinet Members, or to delegate such functions to another Cabinet Member or Committee;
- (h) ensure the effective integration of executive roles, responsibilities and functions within the Cabinet membership;
- (j) be the key contact for outside organisations (including Central Government, Local Authority Associations and Council partners);
- (k) be the key interface between Councillors and the Chief Executive, and the Senior Leadership Board for the strategic management of the Council;
- (l) be the representative voice of the Council, for example, in its dealings with Central Government, other Local Authorities and their Associations and positively to promote the Council as a whole in the media;
- (m) act as the political spokesperson for the Council;
- (n) promote the long term financial, business and economic stability of the Council;
- (o) encourage the highest standards of probity, ethical and corporate governance for the wellbeing of the City;

- (p) communicate the Administration's policies and priorities to the Senior Board and to receive their advice; and
- (q) to exercise the Executive functions of any Cabinet Member in their absence.
- (r) to appoint and dismiss Councillors as Champions to act in an advisory capacity to Cabinet Members in relation to specified topics.

### **7.08 Roles and Responsibilities of the Deputy Leader of the Council**

The following duties and responsibilities are in addition to the role as a Councillor as set out in Article 2.04 and in addition to their role as a Cabinet Member contained in Article 7.

#### **Purpose**

- (a) To assist and work with the Leader of the Council to provide effective political leadership and strategic direction for the Council;
- (b) assist the Leader of the Council with their other responsibilities such as ensuring effective Corporate Governance and stewardship of the Council and to ensure the Council delivers high quality, value for money services; and
- (c) where appropriate and permissible under the Constitution, to act in the absence of the Leader of the Council.

#### **Duties and Responsibilities**

- (a) To assist and work with the Leader of the Council in delivering their responsibilities to the Council within the role profile as set above;
- (b) deputise for the Leader of the Council in their absence from Council meetings and to deputise in the Leader's absence at Cabinet meetings;
- (c) in the Leader of the Council's absence, to carry out the requirements of their role profile as set out above so far as legally possible and permissible; and
- (d) carry out such other duties and undertake portfolio responsibility as delegated by the Leader of the Council.

### **7.07 Roles and Responsibilities of All Cabinet Members**

The following duties and responsibilities are in addition to the role as a Councillor contained in Article 2.04.

#### **Purpose**

- (a) To provide collective and individual leadership as part of the Cabinet;
- (b) undertake lead responsibility for allocated portfolios contained in Part 3 of this Constitution; and
- (c) to contribute effectively towards the strategic direction of the Council.

#### **Duties and Responsibilities**

- (a) To participate effectively as a Member of the Cabinet, take joint responsibility with colleague Cabinet Members for all actions and to be accountable collectively. Challenge issues prior to making decisions if felt appropriate to do so. Ensure appropriate regard to the community's interests and to any equality and diversity issues. Encourage openness and honesty.
- (b) exercise delegated Executive powers in accordance with Part 3 of this Constitution.
- (c) shape and develop the strategic priorities and vision of the Council, participating in debates and discussion about policy issues across the range of services provided by the Council.
- (d) recognise the differing roles of Councillors and officers within the Council's Constitution.
- (e) act as the Lead Member for a particular portfolio as may be determined by the Leader of the Council but, in doing so, have regard to the overall collective responsibilities of the Cabinet and the Council's Strategic Plan objectives. Champion the portfolio concerned within that strategic context.
- (f) represent the Council on external bodies, as appointed and feed back to the Cabinet on issues of relevance/importance.
- (g) facilitate a corporate leadership role where appropriate to do so and foster links through partnerships.
- (h) be responsible for continuous personal development, to take advantage of learning opportunities to build on understanding and knowledge and to develop relevant skills.
- (i) promote positively the portfolio and where appropriate to act as the spokesperson with the media for that portfolio area only.
- (j) In connection with their portfolio:
  - (i) to build good relationships with appropriate senior officers and work with them in developing policy or strategic issues prior to formal reporting. Be supportive in dealing with problems at a strategic level;
  - (ii) keep abreast of related developments and policies at national, regional and a local level;
  - (iii) enhance the Council's reputation through taking the national stage where possible and participating in regional and national networks;
  - (iv) aim for the Council to be at the forefront of service development and provision where possible; take an active interest in related performance indicators and rankings;
  - (v) represent the Cabinet at a Scrutiny Panel meeting in connection with any related matter that may be 'called in' (contained in the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution); similarly, attend the Scrutiny Panel at their request in connection with any issues associated with the portfolio that are being scrutinised;
  - (vi) be aware of issues of importance to the community and other stakeholders concerning portfolio services; and
  - (vii) be aware of key budgetary issues affecting the portfolio of the Cabinet Member.

## **7.05 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

## **7.06 Responsibility for Functions**

The Council shall maintain the list in Part 3 of this Constitution setting out which individual members of the Cabinet, Committees of the Cabinet, Officers or joint arrangements are responsible for the particular exercise of particular Executive functions.

## **7.07 Advisory Panels**

The Council has created:

- (a) the Policy Panel to review strategies and policies and issues at the request of Cabinet or Portfolio Holders and to identify issues and legislative changes that should be examined.
- (b) the Environment and Sustainability Panel to review the Council's response to the climate emergency and to promote environmental sustainability and biodiversity within the Council and its partners.

# Colchester City Council

## Article 8 – Regulatory and Other Committees

### INTRODUCTION

The Council is required to establish committees to undertake non-executive functions under powers delegated from Full Council. By way of example planning and licensing are not executive functions and cannot be discharged by the Cabinet.

### 8.01 Regulatory and Other Committees

The following committees will be appointed by the Full Council. Delegated powers will be given to these committees to discharge their relevant functions.

Committee	Functions
<b>Planning Committee</b>	<b>Planning and conservation</b> <ul style="list-style-type: none"><li>• Functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) ("the Functions Regulations")</li></ul> <b>Highways use and regulation</b> <ul style="list-style-type: none"><li>• The exercise of powers relating to the regulation of the use of highways as set out in Schedule 1 to the Functions Regulations</li></ul> <b>Tree Preservation and Hedgerows</b> <ul style="list-style-type: none"><li>• The exercise of powers as set out in Schedule 1 to the Functions Regulations</li></ul>
<b>Licensing Committee</b>	<b>Hackney carriage &amp; private hire, liquor, gaming, entertainment, food and miscellaneous licensing</b> <ul style="list-style-type: none"><li>• Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations</li><li>• Licensing regime under the Licensing Act 2003 including liquor licensing.</li><li>• Gambling regime under the Gambling Act 2005</li></ul>

Committee	Functions
<b>Governance and Audit Committee</b>	<p><b>Accounts</b></p> <ul style="list-style-type: none"> <li>• To consider and approve the Council’s Statement of Accounts</li> </ul> <p><b>Health and safety</b></p> <ul style="list-style-type: none"> <li>• Functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work etc Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as employer.</li> </ul> <p><b>Safety at Sports Grounds</b></p> <ul style="list-style-type: none"> <li>• Functions relating to safety of sports grounds.</li> </ul> <p><b>Standards of Conduct</b></p> <ul style="list-style-type: none"> <li>• Promoting and maintaining high standards of conduct by Councillors and co-opted members;</li> <li>• assisting Councillors, and co-opted members to observe the Members Code of Conduct;</li> <li>• advising the Council on the adoption or revision of the Members’ Code of Conduct;</li> <li>• monitoring the operation of the Members’ Code of Conduct;</li> <li>• granting dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members Code of Conduct;</li> <li>• determination of complaints made against Councillors in accordance with the arrangements made under the Localism Act 2011;</li> <li>• the exercise of the above in relation to the Parish and Town Councils wholly or mainly within the City of Colchester and the members of those Parish or Town Councils;</li> <li>• advising, training or arranging to train Councillors and co-opted members on matters relating to the Members Code of Conduct.</li> </ul> <p><b>Other functions</b></p> <ul style="list-style-type: none"> <li>• overview of the Council's Whistleblowing Policy</li> <li>• overview of the Council's complaints handling procedure.</li> </ul>

Committee	Functions
<b>Governance and Audit Committee</b>	<ul style="list-style-type: none"> <li>• overview of Local Government and Social Care Ombudsman investigations</li> <li>• monitoring the Member/ Officer Protocol</li> <li>• act as the Council's shareholder committee for Council owned companies and make recommendations to Cabinet.</li> </ul>
<b>Local Plan Committee</b>	<ul style="list-style-type: none"> <li>• Dealing with the Council's responsibilities in relation to local planning and neighbourhood planning functions</li> <li>• Preparation of the Community Infrastructure Levy charging schedule, including consultations, submission and examination, and subsequent monitoring requirements.</li> </ul>
<b>Appointments Committee</b>	<ul style="list-style-type: none"> <li>• Recommend to Council the appointment of the Chief Executive (Head of Paid Service)</li> <li>• Appointment of the Chief Operating Officer, Deputy Chief Executive and Executive Director, Place and Strategic Directors in accordance with the Officer Employment Rules</li> <li>• Appeals against dismissal by the Chief Executive, Chief Operating Officer, Deputy Chief Executive and Executive Director, Place and Strategic Directors.</li> </ul>

## Article 9 – Area Working Arrangements

### INTRODUCTION

The Council has discretion in deciding whether it wishes to introduce Area Working arrangements. It recognises however that a key part of the modernisation process is to strengthen the engagement of the community with the Council. One of the means to achieving this is by way of Area Working arrangements.

#### **9.01 Area Working Arrangements**

No final decisions have yet been taken by the Council in respect of Area Working arrangements. The Council has however recognised the need to engage the community in Area Working which in its early stages will involve listening and communicating better at the local level; identifying, reporting and representing the needs of the locality; community planning at the local level; and monitoring the local delivery of services.

Area Working arrangements will also need to engage the parishes and other existing local arrangements.

The approach to Area Working arrangements will be evolutionary whilst building upon partnerships and structures already established.

The Council may introduce Area Working arrangements as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

#### **9.02 Form, Composition and Function**

Decisions will be made at a future date, and after due consultation.

# Colchester City Council

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## Article 10 – Joint Arrangements

### INTRODUCTION

The Local Government Act 2000 (as amended by the Localism Act 2011) and regulations enable local authorities to make use of joint arrangements with other authorities and delegate to other local authorities.

#### 10.01 Arrangements to Promote Well Being

The Council or the Cabinet, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

#### 10.02 Joint Arrangements

- (a) In accordance with Section 101 of the Local Government Act 1972, the Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not executive functions in any of the participating authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Details of any joint arrangements including any delegations to joint committees will be found in the Council's Schemes of Delegation in Part 3 of this Constitution.

#### 10.03 Access to Information

- (a) The Access to Information Rules contained in Part 4 of this Constitution apply to functions of the Cabinet and to functions of a joint committee provided all the members of the joint committee are members of the Cabinet within each participating authority.
- (b) If the joint committee contains members who are not on the Cabinet of any participating authority, then the access to information rules in Part VA of the Local Government Act 1972 will apply.

#### 10.04 Delegation to and from other Local Authorities

- (a) The Council may delegate non-cabinet functions to another local authority or, in certain circumstances, the Cabinet of another local authority.
- (b) The Cabinet may delegate Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances.

- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to Full Council.

#### **10.05 Contracting Out**

The Council for functions which are not executive functions and the Cabinet for executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

#### **10.06 The Colchester and Ipswich Joint Museums Committee**

On 24 January 2007 the Cabinet agreed to join with Ipswich Borough Council in the formation of the Colchester and Ipswich Joint Museums Committee. The Constitution of the Joint Committee sets out its membership and terms of reference etc. The purpose of the Joint Committee being to develop and implement a joint museum service for Colchester and Ipswich. This Joint Committee has been formed under Sections 101 and 102 of the Local Government Act 1972 and the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2000 (as amended). The Cabinet has agreed the delegations to the joint committee contained in Part 3 of this Constitution.

#### **10.07 The North Essex Parking Partnership Joint Committee**

On 1 April 2011 the Council entered into a Joint Committee Agreement with Essex County Council, Braintree District Council, Epping Forest District Council, Harlow District Council, Tendring District Council and Uttlesford District Council whereby the Council would act as the Lead Authority for the delivery of on street parking services in north Essex. The Joint Committee Agreement sets out its membership and terms of reference etc. Partner authorities may also opt to delegate their off street parking management to the Joint Committee. This Joint Committee has been formed under Sections 101 and 102 of the Local Government Act 1972 and the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2000 (as amended). The Cabinet has agreed the delegations to the Joint Committee contained in Part 3 of this Constitution.

#### **10.08 The Essex Countywide Traveller Committee**

On 1 November 2012 the Council entered into a Joint Committee Agreement with Essex County Council , Essex County Fire and Rescue Service, Maldon District Council, Rochford District Council, Basildon Borough Council, Uttlesford District Council, Thurrock Council and the Chief Constable of Essex Police to manage the Essex Countywide Traveller Unit in accordance with the provisions contained in sections 101 and 102 of the Local Government Act 1972, section 20 of the Local Government Act 2000, the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2012; the Local Authorities (Committee System) (England) Regulations 2012 (as amended) and any other enabling legislation. The Cabinet has agreed the delegations to the Joint Committee contained in Part 3 of this Constitution.

## **10.09 Tendring Colchester Borders Garden Community Joint Committee**

On 17 November 2021 the Cabinet and on 2 December 2021 the Council agreed to form a joint committee with Tendring District Council and Essex County Council in order to discharge executive and non-executive functions in relation to the Tendring Colchester Borders Garden Community regarding the preparation of a joint Development Plan Document and development control functions in accordance with sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972 and the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2012. The Cabinet and the Council have agreed the delegations to the Joint Committee contained in Part 3 of this Constitution.

# Colchester City Council

## Article 11 – Officers

### INTRODUCTION

This Article describes the structure of the Senior Management of the Council and the roles of the Head of Paid Service, Monitoring Officer and Chief Finance Officer (section 151 Officer).

#### 11.01 Management Structure

- (a) The Senior Management structure of the Council comprises the Senior Board whose membership includes the Chief Executive, Chief Operating Officer, Deputy Chief Executive and Executive Director, Place and Strategic Directors. Each member of the Senior Leadership Board has a portfolio of responsibilities which may include statutory responsibilities, service areas, corporate themes and strategies and specific projects.
- (b) The composition of each portfolio may change from time to time to reflect the needs of the Council and the skills and experience of individual members of the Senior Leadership Board.
- (c) The membership of the Senior Leadership Board may vary from time to time.
- (d) The wider Senior Leadership Team comprises the Senior Leadership Board and the Heads of Service.
- (e) The Council is required to designate the following statutory posts: Head of Paid Service, Monitoring Officer and Chief Finance Officer.

The distribution of portfolios and statutory responsibilities is as follows:

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	Strategic managerial leadership Act as the key political interface A focal point for the Council Provide community leadership, according to the political situation. Have ultimate accountability within the Council.
Deputy Chief Executive and Executive Director, Place, Chief Operating Officer and Strategic Directors	Strategic priorities and management Developing the Council's vision Leading the cultural change Oversight of the Council's budget and responsibility for ensuring a balanced budget is achieved which can be supported by Cabinet and Council Developing partnerships Assisting Councillors with their community leadership role
Heads of Service	Accountable to the Senior Leadership Board for the managerial remit for their Service Area. Developing and implementing service plans for their Services Areas that contribute to the achievement of corporate outcomes. Direct interface with Councillors on day-to-day issues relating to

Post	Functions and areas of responsibility
	their Service Area Responsibility for all the resources within their Service Areas.
Monitoring Officer	Maintaining the Constitution Ensuring lawfulness and fairness of decision making Dealing with Member Code of Conduct complaints Conducting investigations Act as Proper Officer for Access to Information Advising whether Cabinet decisions are within the Budget & Policy Framework Providing advice
Section 151 Officer	Ensuring lawfulness and financial prudence of decision making Administration of financial affairs Provide professional financial advice Provide financial information

The above table is descriptive only and full details of delegations will be made available as referred to in Part 3 of this Constitution.

The duties of the Chief Operating Officer, Deputy Chief Executive and Executive Director, Place and the Strategic Directors include the delivery of effective corporate and strategic management of the Council through collaborative working with Councillors, Senior Leadership Board, Heads of Services and partners, including the pursuit of the Council's vision, goals and core values.

**Structure** The Head of Paid Service will determine and publicise a description of the overall management structure of the Council. This is set out at Part 7 of this Constitution.

## Functions of the Statutory Officers

### 11.02 Head of Paid Service

The Head of Paid Service shall undertake all duties designated under Section 4 of the Local Government and Housing Act 1989. These are personal functions and must be undertaken by the Head of Paid Service personally. Where the Head of Paid Service is also the Chief Executive, other functions which are not included in Section 4 may be delegated.

- (a) **Discharge of functions by the Council** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is coordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.
- (b) **Restrictions on functions** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

### 11.03 Monitoring Officer

- (a) **Maintaining the Constitution** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for inspection by members, employees and the public.
- (b) **Ensuring lawfulness and fairness of decision making** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the

full Council (or to the Cabinet in relation to an executive function) if the Monitoring Officer considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- (c) **Supporting the Governance and Audit Committee** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct by Councillors through provision of support to the Governance and Audit Committee.
- (d) **Conducting investigations** The Monitoring Officer will conduct investigations into allegations the Councillors have breached the Councillors Code of Conduct and report to the Governance and Audit Committee where appropriate.
- (e) **Proper Officer for Access to Information** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (f) **Advising whether Cabinet decisions are within the Budget and the Policy Framework** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Budget and the Policy Framework.
- (g) **Providing advice** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and the Policy Framework issues to all Councillors. The Monitoring Officer shall also provide advice to Councillors and Officers in relation to personal and prejudicial interests.
- (h) **Appointment of a Deputy** The Monitoring Officer shall appoint a deputy to act in their absence and when the Monitoring Officer is unable to act as defined in Section 5 of the Local Government and Housing Act 1989.
- (i) **Restrictions on posts** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### **11.04 Section 151 Officer (Chief Finance Officer)**

- (a) **Ensuring lawfulness and financial prudence of decision making** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council (or to the Cabinet in relation to an executive function) and the Council's external auditor if Chief Finance Officer considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and the Policy Framework issues to all Councillors and will support and advise

Councillors and Officers in their respective roles.

- (e) **Give financial information** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

#### **11.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

#### **11.06 Conduct**

Officers will comply with the Officers' Code of Conduct and the Member / Officer Protocol set out in Part 5 of this Constitution.

#### **11.07 Employment**

- (a) The recruitment, selection and dismissal of officers will comply with the Officer Employment rules set out in Part 4 of this Constitution.
- (b) All Officers shall be appointed on merit in accordance with Section 7 of the Local Government and Housing Act 1989.

# Colchester City Council

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## Article 12 – Decision Making

### INTRODUCTION

The Council is required to keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is referred to in Part 3 of this Constitution.

#### 12.01 Responsibility for decision making

One of the purposes of the Executive structure is to expedite the decision making process. It is the intention of the Council that decision taking should be delegated in the interests of speed where that is consistent with the democratic process in terms of accountability and openness.

The various levels of decision making are:-

- (a) Council - Panels / Committees - delegations to Officers
- (b) Cabinet - Cabinet Members - delegations to Officers

Whilst specific functions are reserved to full Council by statute and the Council and the Leader determine that certain executive functions be taken in full meetings of the Cabinet, a purpose of this Constitution is to encourage delegation of decision making to Cabinet Members and to Officers. Where such decisions have been delegated it remains open to the person making the delegation to call the matter back for their own decision. Alternatively, a person to whom a decision has been delegated may decide that the decision should be referred back to the person or body to whom the delegation originated from, i.e., an Officer to a Cabinet Member and a Cabinet Member to the Cabinet. This would usually be on issues of significance or sensitivity and for the decision maker to refer matters upwards for determination.

As a matter of principle all Key Decisions at least initially shall be taken at full meetings of the Cabinet.

The separation of powers between the Council and the Cabinet (the Executive) is fundamental to the operation of modernised local government.

The Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) set out what decisions the Council must make itself and these are detailed in Article 4. The following function under Schedule 2 of the Regulations is a function in relation to which the Full Council itself will make decisions:

- the determination of any appeal against a decision made by, or on behalf of the Full Council as opposed to appeals against decisions of the Cabinet.

The determination of any appeal against a decision made by, or on behalf of the Full Council as referred to above shall not in any way affect or remove the statutory rights of the individual.

Decisions which the Full Council have delegated to Committees are identified in Article 8.

The Leader will exercise all powers including the power of delegation to individual Cabinet Members and/or Officers. Decisions are made by the Cabinet collectively, or individual Cabinet

Members in respect of matters relating to the range of responsibilities which have been delegated to them.

Decisions in relation to the Budget and the Policy Framework are exclusively reserved to the Full Council.

## **12.02 Principles of decision making**

In order that decision making is efficient, transparent and accountable, all decisions of the Council (whether taken by Full Council, the Cabinet, Panels and Committees and those under delegated powers) shall have regard to the following principles :-

- (a) consideration of all options available;
- (b) having regard to due consultation;
- (c) consideration of professional advice from officers;
- (d) clarity of aims and desired outcomes;
- (e) the action proposed must be proportionate to the desired outcome;
- (f) having respect and regard for human rights;
- (g) presumption for openness;
- (h) only relevant matters taken into account;
- (i) due weight to all material considerations;
- (j) proper procedures will be followed.

## **12.03 Types of decision**

- (a) Decisions reserved to the Full Council.

Decisions relating to the functions listed in Article 4 will be made by the Full Council and not delegated.

- (b) Key Decision

A "Key Decision", as set out in the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) is a decision, which is likely to either:

- result in the Council incurring expenditure or the making of savings which are significant having regard to the Council's budget for the service or function to which the decision relates. The Council has determined that the level of expenditure or savings for these purposes is £500,000; or
- to be significant in terms of its effects on communities living or working in an area comprising two or more wards within the City of Colchester.

A Key Decision will relate to a decision on a matter identified in the Forward Plan, except in cases of urgency when the provisions contained in the Budget and the Policy Framework Procedure Rules will apply.

In accordance with Section 9Q of the Local Government Act 2000 (as amended by the Localism Act 2011), in determining the meaning of "significant" the Council shall determine thresholds above which items are significant and will ensure these limits are published. The Council has determined that the threshold shall be £500,000.

Any decisions involving expenditure or saving above the published threshold for the service or function concerned will be a Key Decision. A Key Decision may not necessarily involve

significant expenditure or savings but may however be significant in terms of its effect on communities in two or more wards with the City.

A decision taker may only make a Key Decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

(c) **Decisions made by Panels and Committees**

Decisions made by Panels and Committees appointed by the Council -power to make such decisions is delegated by the Council in accordance with Part 4 of this Constitution; (Section 101, Local Government Act 1972).

**12.04 Decision making by the Full Council**

Subject to Article 12.09, when considering any matter, the Full Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution.

Reasons for decisions shall be recorded.

**12.05 Decision making by the Cabinet**

Subject to Article 12.09, when considering any matter, the Cabinet any committee of Cabinet, individual Cabinet Member or Officer exercising delegated powers will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution.

Reasons for decisions shall be recorded.

**12.06 Decision making by the Scrutiny Panel**

When considering any matter, the Scrutiny Panel will follow the Meetings General Procedure Rules and the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

Reasons for decisions shall be recorded.

**12.07 Decision making by the Planning Committee, Licensing Committee, Local Plan Committee, Governance and Audit Committee, Policy Panel and the Environment and Sustainability Panel.**

Subject to Article 12.08, other Council Committees will follow the Meetings General Procedure Rules and where appropriate the Planning Committee, Licensing Committee and Governance and Audit Committee Procedure Rules set out in Part 4 of this Constitution.

Reasons for decisions shall be recorded.

**12.08 Decision making by Council bodies acting as tribunals**

The Council, a Councillor or an Officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

Reasons for decisions shall be recorded.

# Colchester City Council

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## Article 13 – Finance, Contracts and Legal Matters

### INTRODUCTION

This Article refers to the Council's Financial and Contract Rules, which are contained in Part 4 of this Constitution.

#### **13.01 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 4 of this Constitution.

#### **13.02 Contracts**

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution. Individual Cabinet Members will not be able to authorise the entering into contracts beyond the value of £500,000.

#### **13.03 General Emergency Powers**

The Chief Executive shall, having as far as possible conferred with the Leader of the Council in the event of civic disasters or other issues of extreme emergency, have power to make decisions for the protection of the City of Colchester and its citizens and which cannot be dealt with in accordance with the normal decision making processes of the Council.

#### **13.04 Legal Proceedings**

The Proper Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Proper Officer considers that such action is necessary to protect the Council's interests.

#### **13.05 Authentication of Documents**

The Proper Officer shall be authorised to sign on behalf of the Council all documents and other papers which are intended to give formal legal effect to decisions of the Council, the Cabinet, a Panel or Committee or Officer acting under delegated powers and which are not required to be under seal.

#### **13.06 Common Seal of the Council**

The Common Seal of the Council shall be kept in a safe place in the custody of the Proper Officer.

The Common Seal of the Council shall not be affixed to any document unless the sealing has

been authorised:

- (a) by a resolution of the Council, or
- (b) by a resolution of the Cabinet, a Panel or Committee to which the Council has delegated its powers in that behalf; or
- (c) upon the written authority of an Officer to whom the Council has delegated its powers in that behalf such resolution of the Council, the Cabinet, a Panel or Committee or written authority of an Officer shall be sufficient authority for sealing any document necessary to give effect to the resolution or exercise of delegated powers.

The Common Seal of the Council shall be attested by the Chief Executive or the Head of Governance or the Legal Services Manager & Deputy Monitoring Officer who shall sign as an Authorised Signatory or in their absence the Mayor or in their absence the Deputy Mayor

The Proper Officer shall keep a book called the "Seal Register" in which shall be entered the date on which every document is sealed and brief particulars of such document. The attester shall sign their name against such entry.

### **13.07 Custody of Deeds etc**

The Proper Officer shall be responsible for the maintenance of the Register of Properties giving full details of land and property owned by the Council.

The Proper Officer shall be responsible for the custody of all title deeds and similar securities relating to property owned by the Council.

### **13.08 Inspection of Lands, Premises, etc**

Unless specifically authorised to do so by the Council, the Cabinet, a Panel or a Committee, a Councillor shall not issue or purport to issue, any order respecting any works which are to be carried out by or on behalf of the Council or claim, by virtue of being a Councillor, any right to inspect or to enter upon any lands or premises which the Council has the power or duty to inspect or enter.

# Colchester City Council

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## Article 14 – Review and Revision of the Constitution

### INTRODUCTION

This Article places a duty to monitor and review the Constitution on a particular body or person.

#### **14.01 Duty to Monitor and Review the Constitution**

The Council is required to keep the Constitution under review and this task is to be undertaken by the Monitoring Officer.

The Council is also required to keep the Constitution up to date, and to reflect changes which may be made from time to time by the Council or the Cabinet.

The first review will consist of a complete review of the Constitution. Thereafter the review will consist of a systematic review of the Constitution on a rolling programme; the programme to be agreed by Full Council on an annual basis.

The results of the review will be reported to Full Council, who can approve and adopt any necessary changes to the Constitution.

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect and will report at least on an annual basis to the Full Council.

#### **Protocol for Monitoring and Review of Constitution by Monitoring Officer**

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

- (a) observe meetings of different parts of the Councillor and Officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with him/her by Councillor, Officers, the public and other relevant stakeholders; and
- (d) compare practices in this Authority with those in other comparable authorities, or national examples of best practice.

## **14.02 Changes to the Constitution**

Changes to the executive arrangements must be approved by the Full Council. Where the proposed change involves a change from a Leader and Cabinet model to a Mayoral form, the Council must take steps to consult with local electors and other interested persons and take the results of the consultation into account before taking a final decision on such a change. A change to a Mayoral form could not be implemented unless endorsed by a local referendum.

# Colchester City Council

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## Article 15 – Suspension, Interpretation and Publication of the Constitution

### INTRODUCTION

This Article ensures that the Articles of the Constitution may not be suspended. This provides certainty and stability to the fundamental aspects of the Council's governance. However, it does provide for Rules of Procedure to be suspended in certain circumstances.

#### 15.01 Suspension of the Constitution

- (a) **Limit to suspension** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the relevant meeting in accordance with the extent permitted within those Rules and the law.
- (b) **Procedure to suspend** A motion to the Full Council to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present. For all other meetings, no rules shall be suspended by the meeting unless at least one half of the members of the meeting are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension** The following Rules may be suspended in accordance with Article 15.01:
- Council Procedure Rules
  - Cabinet Procedure Rules
  - Meetings General Procedure Rules
  - Overview & Scrutiny Procedure Rules
  - Planning Committee Procedure Rules
  - Licensing Committee Procedure Rules
  - Governance and Audit Committee Procedure Rules

#### 15.02 Interpretation

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Full Council shall not be challenged at any meeting of the Full Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

#### 15.03 Keeping the Constitution up to date

The Full Council has delegated the power under Section 9P of the Local Government Act 2000 to prepare and keep up to date the Constitution to the Monitoring Officer who shall make appropriate arrangements to ensure the Constitution is kept up to date and is made available in accordance with paragraph 15.04 below.

#### **15.04 Publication**

- (a) The Proper Officer will familiarise each Councillor following that individual's declaration of acceptance of office upon the Councillor first being elected to the Council with the Constitution.
- (b) The Constitution is published on the Council's website: [www.colchester.gov.uk](http://www.colchester.gov.uk)

# Colchester City Council

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## Article 16 – Council Companies

### INTRODUCTION

The Council has various statutory powers to enable it to set up a company which may take various forms. The Council must effectively manage the relationship between the Council and its companies to ensure that they can deliver the objectives established for it by the Council and to ensure transparent and robust governance processes for both the Council and its companies.

### 16.1 Principles of Governance of Council owned Companies

Any decisions or recommendations in relation to Council owned companies shall be formed with clear reference to the principles outlined below.

The Council's governance arrangements will seek to ensure the following:

#### (a) **Appropriate Controls and Freedoms**

- The company will be provided with sufficient freedoms to allow it to achieve its objectives, but
- The Council will retain sufficient controls to ensure that its investment is protected, that appropriate social and financial returns on investment can be obtained in line with the company's business case and business plan and that the trading activities of the company are, wherever possible, conducted in accordance with the values of the Council.

#### (b) **Appropriate Relationships, Integrity and Accountability**

- Procedures operate in a way that protects the commercial interests of the company, those procedures will ensure that the Council can carry out its functions as an investor, as a trustee of public funds and a Council committed to due responsibility for the exercise of its functions.
- Cabinet or the Leader can make decisions based upon complete and accurate consideration of the company's business plans or proposals following recommendations from the Governance and Audit Committee,
- Cabinet or the Leader will evaluate social and financial benefits and returns in line with the business plan following recommendations from the Governance and Audit Committee, and
- The Council's Scrutiny Panel is able to exercise their powers in relation to the Cabinet or the Leaders decision making.

#### (c) **Understanding of roles of the Council and the company**

- That there is sufficient induction, regular training and other materials in place so that:
  - their legal duties,

- stewardship of assets,
- the provision of the governing documents,
- the external environment, and
- the total structure of the Council and the company

are appropriately understood by Councillors in their various roles including as a Member of the Council, the Cabinet, Scrutiny Panel, Governance and Audit Committee, by officers of the Council and by Directors of the company and that the standards outlined in the Lawyers in Local Government Code of Practice are met.

## **16.2 Roles, Responsibilities and Decision Making**

The creation of any new company (including subsidiaries) or significant change in purpose of an existing company is a Key Decision and will require a business case. The relevant Portfolio Holder will be consulted in the development of the business case and the business case must be approved in accordance with the Cabinet (executive) decision making processes outlined in the Cabinet Procedure Rules and the Access to Information Procedure Rules.

- (a) The Council is the Shareholder/ Owner for each company. As a default this function is discharged but the Leader of the Council. The Shareholder/ Owner can appoint a Shareholder Representative which will usually be a member of the Senior Leadership Board. The Shareholder/ Owner or Shareholder Representative will ordinarily approve all reserved matters and some may be referred to the Cabinet or the Leader. Reserved matters are matters that are reserved for decision by the Council.
- (b) Reserved matters follow the Council's Cabinet decision making processes set out in Article 7 and will be treated as subject to the Access to Information Procedure Rules. Decision on Reserved matters relating to companies where the Council has a controlling interest, or a minority interest will be taken in the same manner as wholly owned companies. The constitution notes that in the case of companies which are not wholly owned an Executive Decision is subject to the consent of the other shareholders in the entity which shall be governed in accordance with the provisions of the relevant Shareholder Agreement/ Group Governance Agreement.
- (c) Each wholly owned company will be governed by a formally constituted Board which is tasked with delivering the Shareholder's objectives and informing the Shareholder/ Owner on strategic and key operational matters.
- (d) The appointment and dismissal of Directors (including non-executive Directors) is a reserved matter for the Shareholder/ Owner. Directors are responsible for the management of the business of the company with exception of the reserved matters.
- (e) The Scrutiny Panel is responsible for scrutiny of the Leader of the Council and Cabinet's decisions in relation to companies and can make recommendations to the Cabinet on company related matters. Decisions by the Leader of the Council and Cabinet on companies are subject to the Call-in processes outlined in Article 6 – Overview and Scrutiny of decisions.
- (f) The Scrutiny Panel can invite company representatives to attend meetings to provide information to support the scrutiny of the Cabinet. However, this does not extend to scrutiny of the company and its performance.

- (g) The Leader has agreed that the Governance and Audit Committee shall act as the Shareholder Committee for Council owned companies and will make recommendations to Cabinet in accordance with its terms of reference.
- (h) The Leader may appoint or remove any Councillors appointed to the Board of Council owned companies.

### **16.3 Access to Information**

This should be read in conjunction with the Access to Information Procedure Rules which covers access to meetings and documents of the Council, the Cabinet and its Committees.

- (a) Reserved matters which require Shareholder/ Owner consent are defined in the Articles of Association or Shareholder Agreement/ Group Governance Agreement for each company. The process for approving and recording decisions relating to reserved matter will be defined within the Shareholder Agreement and will be consistent across all companies as far as possible. Such decisions are Executive Decisions and are also captured by the Council's Access to information Procedure Rules.
- (b) Each company will maintain a strong controls framework with adequate financial records which meet appropriate company standards. Each should have the documents set out below:
  - Business Case – assesses the risks and benefits involved in the creation of the proposed company.
  - Articles of Association – sets out the constitution of the company.
  - The Group Governance Agreement / Shareholder Agreement – sets out the rights of the Council as the shareholder and how it can exercise those rights.
  - The Management Agreement – sets out what financial assistance is to be provided by the Council to the company and on what terms.
  - The Business Plan – forward looking, setting out what the company will do and the objectives of the business and how they are to be achieved.
  - Board Agenda and summary or meeting discussions and decisions
  - Monthly performance reports
  - Monthly management accounts
- (e) All of the above documents and details about which individuals sit on the company board are accessible by Councillors and members of the public unless they contain exempt or confidential information.

**Record of Decisions taken under Scheme of Delegation to Cabinet Members  
10 February 2023 – 7 July 2023**

**2022-23 Municipal Year**

<b>Portfolio – Culture and Heritage</b>					
<b>Date</b>	<b>Number</b>	<b>Report Title</b>	<b>Author</b>	<b>Decision</b>	<b>Result</b>
No decisions in this period					

<b>Portfolio – Environment and Sustainability</b>					
<b>Date</b>	<b>Number</b>	<b>Report Title</b>	<b>Author</b>	<b>Decision</b>	<b>Result</b>
No decisions in this period					

<b>Portfolio – Housing and Communities</b>					
<b>Date</b>	<b>Number</b>	<b>Report Title</b>	<b>Author</b>	<b>Decision</b>	<b>Result</b>
6 February 2023	HOU-023-22	Award of Contract for completion of Void Work in the Housing Stock	Martin Norgett	To award a contract to Houghton & Son Ltd to undertake void work within the Housing Stock for up to four years (on a 2+1+1-year basis that means that following the first two year period, the contract will be reviewed and extended on a yearly basis subject to performance).	Decision implemented 20 February 2023
22 February 2023	HOU-24-02	Sale of Housing Revenue Account Land 130 Morant Road, Colchester	Suzanne Norton	To approve the sale of a parcel of HRA land to the front of 130 Morant Road outlined in blue on the plan in Appendix A of this report, to the owner of 130 Morant Road, in	Decision implemented 1 March 2023

**Agenda item 11**

**Record of Decisions taken under Scheme of Delegation to Cabinet Members  
10 February 2023 – 7 July 2023**

				accordance with the Disposal of Small Parcels of Land Policy.	
27 February 2023	HOU-025-22	Award of Design and Build construction contract for “Phase 3 Garage Site” of the “New Council Housing Programme” at Veronica Walk and Prospero Close (Ref: 0317)	Terri Hamilton	To award a contract to Rose Builders for the Design and Build Construction works required on the 7 units at Veronica Walk and Prospero Close within the Greenstead ward in Colchester	Decision implemented 13 March 2023
9 March 2023	HOU-026-22	Award of Design and Build construction contract for “Phase 3 Garage Site” of the “New Council Housing Programme” at Hedge Drive.	Terri Hamilton	To award a contract to Amplis Construction Ltd for the Design and Build Construction works required on the 3 units at Hedge Drive within the Shrub End ward in Colcheste	Decision implemented 23 March 2023
5 April 2023	HOU-027-22	106 / 106a Shrub End Road – Sell / Redevelop	Terri Hamlton	To Advertise 106 / 106a Shrub End Road on the open market for offers of or over the suggested value, for a period of 8 weeks. To recycle the money gained from the sale of the site, to acquire two x 4 bed properties within the acquisitions programme, in addition to the annual target for acquisitions. If the property does not achieve the asking price within a period of 8 weeks, proceed with the option to remodel the site into two x 4 bed homes, to be let to local applicants with the highest need	Decision implemented 13 May 2023

**Record of Decisions taken under Scheme of Delegation to Cabinet Members  
10 February 2023 – 7 July 2023**

<b>Portfolio – Local Economy and Transformation</b>					
<b>Date</b>	<b>Number</b>	<b>Report Title</b>	<b>Author</b>	<b>Decision</b>	<b>Result</b>
21 March 2023	ECO-006-22	IDOX Renewal of Contract	Vaughan Johnston	To approve the award of a contract to IDOX for the provision of their electronic document management system for the period 01/04/2023 - 31/03/2026 via a direct award through Crown Commercial Services framework, Data & Applications Solutions RM3821 (Lot b), Workflow & Case Management Solutions. With a total contract value of £121,009.56 (at £40,336.52 per annum).	Decision Implemented 28 March 2023

<b>Portfolio – Neighbourhood Services and Waste</b>					
<b>Date</b>	<b>Number</b>	<b>Report Title</b>	<b>Author</b>	<b>Decision</b>	<b>Result</b>
9 February 2023	WAS-002-22	Review of Saturday Household Drop off service	Rosa Tanfield	To agree to change the current free operating model for the Saturday Household Dropoff Service so that the Council only offers a selection of chargeable Saturday collection services to residents' associations, parish councils, managing agents or other organisations, with the fees as set out within the report.	Decision called in and reviewed by the Scrutiny Panel on 3 March 2023. Recommendations made by Scrutiny Panel

## Agenda item 11

### Record of Decisions taken under Scheme of Delegation to Cabinet Members 10 February 2023 – 7 July 2023

					considered by Cabinet on 8 March 2023.
9 February 2023	WAS-003-22	Review of Bulky Collection Service	Rosa Tanfield	To agree that the Council signposts residents wishing to have bulky household items disposed or recycled, to either the Council's chargeable collection service or to local recycling centres and/or charity collection services, and that it no longer offers free collections for those residents in certain postcode areas.	Decision implemented 23 February 2023
22 February 2023	WAS-004-22	Supply of clear recycling bags for recycling collections in Colchester (Ref: 0329)	John Kellet	To accept the tender submitted by Paramount Packaging (UK) Ltd for the supply of clear recycling bags.	Decision implemented 1 March 2023
12 April 2023	WAS-005-22	Contract Award of Lease Vehicles	Danielle Northcott/Jason Butcher	To award a contract to Athlon UK for the supply of Fleet vehicles for use by the North Essex Parking Partnership.	Decision implemented 19 April 2023

#### Portfolio – Planning and Infrastructure

Date	Number	Report Title	Author	Decision	Result
23 February 2023	PLA-005-02	Consultation on the revisions to the National Planning Policy Framework	Sandra Scott	To agree the response as set out in the Appendix A to the Report as answers to the consultation questions posed.	2 March 2023

**Record of Decisions taken under Scheme of Delegation to Cabinet Members  
10 February 2023 – 7 July 2023**

<b>Portfolio – Resources</b>					
<b>Date</b>	<b>Number</b>	<b>Report Title</b>	<b>Author</b>	<b>Decision</b>	<b>Result</b>
No decisions in this period					

<b>Portfolio – Strategy</b>					
<b>Date</b>	<b>Number</b>	<b>Report Title</b>	<b>Author</b>	<b>Decision</b>	<b>Result</b>
No decisions in this period					

**2023-24 Municipal Year**

<b>Portfolio – Communities</b>					
<b>Date</b>	<b>Number</b>	<b>Report Title</b>	<b>Author</b>	<b>Decision</b>	<b>Result</b>
22 June 2023	COM-001-23	Appointment of Architect for new Greenstead Community Hub	Daniel Barton	To appoint KLH Architects Ltd for RIBA Stages 1–3 for Phase 1 of the project which is to design the new Community Hub and prepare required Planning Application.	29 June 2023

<b>Portfolio – Economy, Transformation and Performance</b>					
<b>Date</b>	<b>Number</b>	<b>Report Title</b>	<b>Author</b>	<b>Decision</b>	<b>Result</b>
No decisions in this period					

**Record of Decisions taken under Scheme of Delegation to Cabinet Members  
10 February 2023 – 7 July 2023**

<b>Portfolio – Housing</b>					
<b>Date</b>	<b>Number</b>	<b>Report Title</b>	<b>Author</b>	<b>Decision</b>	<b>Result</b>
No decisions in this period					

<b>Portfolio – Leisure, Culture and Heritage</b>					
<b>Date</b>	<b>Number</b>	<b>Report Title</b>	<b>Author</b>	<b>Decision</b>	<b>Result</b>
No decisions in this period					

<b>Portfolio – Neighbourhood Services and Waste</b>					
<b>Date</b>	<b>Number</b>	<b>Report Title</b>	<b>Author</b>	<b>Decision</b>	<b>Result</b>
7 July 2023	NEI-001-23	Award of contract for the collection and onward process of recycling materials	Robert Doran	To award a contract to Plan B Management Solutions.	Decision can be implemented 21 July 2023 if not called in

<b>Portfolio – Planning, Environment and Sustainability</b>					
<b>Date</b>	<b>Number</b>	<b>Report Title</b>	<b>Author</b>	<b>Decision</b>	<b>Result</b>
No decisions in this period					

**Record of Decisions taken under Scheme of Delegation to Cabinet Members  
10 February 2023 – 7 July 2023**

Portfolio – Resources					
Date	Number	Report Title	Author	Decision	Result
No decisions in this period					

Portfolio – Strategy					
Date	Number	Report Title	Author	Decision	Result
5 June 2023	STR-001-23	Appointment to Council Companies	Andrew Weavers	To approve the appointments detailed at paragraph 5.3 of the report and for such appointments to be for the term identified at paragraph 5.4 of the report.	Decision implemented 12 June 2023





## Scrutiny Panel

Item  
**13**

14 March 2023

<b>Report of</b>	<b>Chief Operating Officer</b>	<b>Author</b>	<b>Owen Howell</b> <b>Tel. 282518</b>
<b>Title</b>	<b>Annual Scrutiny Report</b>		
<b>Wards affected</b>	Not Applicable		

**This is a report setting out the work of the Scrutiny Panel during 2022/23**

### 1. Executive Summary

- 1.1 This report sets out the work of the Scrutiny Panel during 2022/23 and requests that the Panel recommend the report to Full Council for approval on 19 July 2023.

### 2. Action Required

- 2.1 The Panel is asked to consider and comment on the draft Annual Scrutiny Report.
- 2.2 The Panel is asked to recommend this report to Full Council for approval on 19 July 2023.

### 3. Background Information

- 3.1 The Constitution states the Scrutiny Panel shall report annually to the Full Council on its work and make recommendations for future work programmes and amended working methods if appropriate.
- 3.2 The purpose of the report is to inform the Council of the work undertaken by the Scrutiny Panel, and for the Full Council to form an opinion of the effectiveness of the scrutiny function. The final report will be submitted to Full Council for consideration and approval following endorsement by Scrutiny Panel members.
- 3.3 This Scrutiny Report is a descriptive record of the scrutiny reviews undertaken by the Scrutiny Panel in 2022/23. It also provides a report on any work undertaken by the Scrutiny Panel in its role as Crime and Disorder Committee for the Council.
- 3.4 The draft Annual Report gives a general overview of the series of Portfolio Holder briefings received by the Scrutiny Panel during 2022-23. A link has been provided for members to access the relevant minutes for individual briefings on the Council website. The Panel may wish to consider whether it wishes for copies of the minutes of these briefings to be collated to form a background document to the Annual Report when it is presented to Full Council. Whilst detail from individual briefings has been omitted from this report, any resolutions or recommendations which arise from those briefings are shown within the report.

#### **4. Standard and Strategic Plan References**

- 4.1 Scrutiny and challenge was integral to the delivery of the Strategic Plan 2020-2023 priorities and direction for the Borough as set out under the strategic themes of:
- [Tackling the climate challenge and leading sustainability](#)
  - [Creating safe, healthy and active communities](#)
  - [Delivering homes for people who need them](#)
  - [Growing a fair economy so everyone benefits](#)
  - [Celebrating our heritage and culture](#)
- 4.2 The Council recognises that effective local government relies on establishing and maintaining the public's confidence, and that setting high standards of self-governance provides a clear and demonstrable lead. Effective governance underpins the implementation and application of all aspects of the Council's work.

#### **5. Appendices**

- 5.1 Appendix A – Draft Scrutiny Panel Annual Report 2022-23.

# Scrutiny Panel Annual Report 2022-23

This Annual Report demonstrates the contribution made by the Scrutiny Panel at Colchester Borough Council.

## Scrutiny Panel Role

The role of the Scrutiny Panel is to examine the Council's policies and strategies from a Borough-wide perspective and ensure that the actions of the Cabinet accord with the Council's policies and budget. The Panel also reviews corporate strategies that form the Council's Strategic Plan, Council partnerships and the Council's budgetary guidelines, and scrutinises Cabinet or Portfolio Holder decisions which have been called in.

## The Scrutiny Panel in 2022/23

The function of the Scrutiny Panel continued to be important, given the challenges faced by the Council in addressing the effects of the extreme financial pressures caused by the macroeconomic situation in which the UK finds itself, and the formation of a new Council Administration in May 2022. Pressures on the Budget required the Council to address changes in income and expenditure to continue to provide services in a safe but successful manner under difficult circumstances. As a consequence, the Council was required to continue to innovate and look for different ways to mitigate financial pressures, and to adapt service provision in ways which sought to enable the continued delivery of vital services throughout the Borough, whilst minimising costs. The Scrutiny Panel played an important role in examining the strategic decision making relating to the Council's delivery of services.

The Panel continued to carry out its annual programme of scrutinising the Council's financial affairs, budget setting and performance against its Strategic Plan. In-depth and detailed examination of the Council's draft Budget for 2023-24 was carried out, supported by members of the Cabinet and the Head of Finance/Section 151 Officer and his team.

The success of Scrutiny Panel reviews depended on the involvement of Councillors, Council officers, partner organisations, expert witnesses and members of the public, and the Chairman of the Scrutiny Panel would like to thank everyone for their contribution to the work of the Scrutiny Panel in 2022/23.

## Call-ins

The general low level of call-ins and matters of urgency on Scrutiny Panel agendas suggests that the governance arrangements within the Council are working effectively.

One call-in request was received during 2022-23, relating to a decision taken by the Portfolio Holder for Neighbourhood Services and Waste. This decision was published on 9 February 2023 and was as follows:

*To agree to change the current free operating model for the Saturday Household Drop-off Service so that the Council only offers a selection of chargeable Saturday collection services to residents' associations, parish councils, managing agents or other organisations, with the fees as set out within the report.*

The call-in raised the following concerns:

- No consultation with residents.
- No consultation with staff.
- Will increase fly tipping.
- Will affect those most vulnerable who do not have access to a vehicle.
- Is against the Council's Climate policy as it will increase vehicular movements going to recycling centres.
- Will increase domestic waste collection services

The call-in period was for ten working days, and a call-in request was received on 20 February 2023 and declared valid by the Council's Monitoring Officer, based on the first two concerns raised, as shown above. An additional meeting of the Scrutiny Panel was scheduled for 3 March 2023 in order to consider this call-in.

As Lead member on the call-in, Councillor Lissimore presented and explained the reasons given for challenging the decision in question. Councillor Goss, as Portfolio Holder for Neighbourhood Services and Waste then answered these points and explained how the decision had been taken. The Panel discussed each of the points raised and considered whether enough consultation had occurred, and whether it agreed with the challenges concerning effects on fly tipping, other Council services and on residents.

The Panel noted the explanation of the Portfolio Holder for Neighbourhood Services and Waste regarding the work which officers of the Council had done in relation to this decision, showing that consultation of officers had occurred, however concern was raised that no consultation of the public or councillors had been carried out. The Portfolio Holder explained that only 120 out of 193,000 residents used the service [0.06%], and that consultation was not carried out as the users of the service consisted of less than 1% of the population. The Panel discussed this, and asked questions about Cabinet's approach to consultations and what the percentage of residents being affected by a decision would lead to a consultation. The Panel raised concern that there was no policy or guidance to guide Portfolio Holders as to when consultation should be carried out of residents and councillors in regard to decisions taken.

The Panel considered the concerns regarding the likely effects on vulnerable residents, council services and fly tipping rates. Individual members of the Panel voiced their concerns as to the potential effects, however the Panel decided that the final three points raised in the call-in, as shown above, could

not be evidenced. The view was given that it could not be shown that the decision taken would affect those without a vehicle or go against climate policies due to increasing vehicle journeys to recycling centres (as almost all would need access to a vehicle to transport waste items to the current collection points), or that there would be an increase in use of domestic waste collection services.

The Panel discussed the potential for increased fly tipping, and increased costs of dealing with this. The Portfolio Holder for Neighbourhood Services and Waste gave the view that no increase was expected and therefore no increased cost had been factored into the estimate of the savings generated by this decision. Panel members expressed concern that no information or consideration regarding this issue was contained in the decision report.

*RESOLVED* that the decision WAS-002-22 [Review of Saturday Household Drop-off Service] be referred back to the Portfolio Holder for Neighbourhood Services and Waste, for further consideration, with the recommendation that the Portfolio Holder addresses the following concerns: -

- (a) That the decision had not been subject to consultation and the Panel was concerned that there did not appear to be a policy or formal guidance to guide Cabinet and individual portfolio holders as to how to approach consultations and in what circumstances they should be carried out;
- (b) That the potential for increased fly tipping which may be caused by this decision has not been addressed, that more data analysis of the likelihood of this happening should have been conducted and content included in the decision report to lay out the expected effects and additional costs to the Council, even if it no increase in fly tipping or Council costs is expected.

### **Decisions taken under urgency provisions**

Certain decisions may be taken by Portfolio Holders or Cabinet under urgency provisions within the Constitution. Decisions taken by Cabinet or Portfolio Holders under urgency provisions are decisions made to take immediate action on urgent matters, which must then be reported on to the Scrutiny Panel at the earliest possible meeting. Such decisions are not subject to the usual decision making/call in process.

The Overview and Scrutiny Procedure Rules state that; 'A decision would be urgent if any delay likely to be caused by the Call-In procedure would seriously prejudice the legal or financial position of the Council or the decision relates to the commencement of a statutory consultation process.'

At the Panel's first full meeting of 2022-23, the Chairman underlined his expectation that, for any decisions taken under special urgency provisions, the Panel would expect to be provided with a clear timeline of the decision making, to show why there had been a need for the special urgency provisions to be used.

No decisions were taken under special urgency provisions during 2022-23 and by the time of the writing of this report.

## **Pre-decision scrutiny of decision making.**

During 2022/23 the Scrutiny Panel conducted proactive scrutiny of key strategies and decisions to be made by Cabinet, including the setting of the Council's draft Budget for 2022-23.

### Colchester's Housing Strategy 2022-27

On 5 July 2023, the Panel reviewed the draft Housing Strategy, due to be put before Cabinet for adoption on 6 July 2023.

The Chairman explained that the Panel would look at the Strategy and offer views as to whether it was fit for purpose. Praise was given for the clear presentation and explanation of the key priorities and how the Strategy had been formed around them. Questions were asked as to how to supply the greatest amount of necessary housing for sale and whether funding would be provided to housing associations for affordable housing developments or purchases.

The Panel discussed the lack of affordable housing, the effect this had an increasing demand pressure in the rental market, and evictions from private rental properties, caused by landlords selling up and a variety of other reasons.

The Panel questioned the targets set, such as an increase to 30% for affordable housing as a percentage of new build properties. The Strategic Economic Growth Manager outlined the range of different types of affordable housing schemes possible, with the Council striving to achieve a balance of the different types. The Council now routinely and successfully demanded that 30% of homes in new development be affordable housing. The four main avenues to increase affordable housing were to insist on it being included in developments (as planning gain), for the Council to build affordable housing itself, to buy stock (including homes sold under 'Right to Buy' provisions, and to work with non-profit deliverers (such as alms houses) to help them build more. A Panel member pushed for stronger wording than to 'seek' 30% of properties on new development to be affordable housing, and for the Council to examine why it does not achieve this 30% for all major developments. It was confirmed that the draft Strategy did call for 30% on all major developments, and that the Council sought this from all new major developments.

Members discussed the instances where developers agreed to a set percentage of affordable housing, but later sought to reduce or remove requirements for affordable housing, on viability grounds. Assurance was given that the Council did its best, case by case, to hold developers to the requirement. Any request for variations to the requirement would need to be backed up by evidence to prove unviability. The Panel recommended to Cabinet that the Council retains a target that 30% of the properties to be built for any major development must be required to be affordable housing.

The Panel discussed the possibility of prioritising local people to give them first chance to buy new affordable housing, before it is offered on the open market. The Portfolio Holder explained that, working with CBH, partnership schemes, the Council were looking at ways to offer new properties to local people first, such as the developments on sites formerly used for garages. A member highlighted a pilot trial, where an application for a village development had been granted subject to a local prioritisation scheme being tested when the properties were ready to be sold. Panel members suggested that the draft Strategy contain content that would lay out the Council's approach to prioritising sale of affordable housing to people with local connections or residency.

This item led the Scrutiny Panel to scheduled further consideration of Section 106 developer contributions and on family/local affiliation in letting or sale of new affordable housing. The former was scheduled for 14 March 2023, with the latter scheduled for 8 November 2022 and summarised within this Annual Report.

### Draft Economic Strategy

At the Scrutiny Panel meeting on 13 December, the Panel conducted pre-decision scrutiny of the draft Economic Strategy.

the Strategy updated the Council's priorities as to how to boost the local economy, increase infrastructure (such as roads, healthcare, digital economy and broadband coverage), improve pay levels and inspire new projects.

Matt Sterling, Strategic Economic Growth Manager, explained that the Economic Strategy was closely linked to the Housing Strategy, and that it set out high-level priorities, alongside specific projects and actions and fitted these into an action plan. The three main strands of the strategy were firstly data (including economic trends, information and the strategy's evidence base), secondly engagement (with business and public sector representatives, one-to-one and partnership meetings), and thirdly an understanding of the Administration's priorities. All the priorities were intended to boost all parts of the area, urban and rural.

Inclusive economic growth was to be supported, with focus on business innovation and increasing the availability of skills. The Council aimed to leverage additional investment and infrastructure spending, whilst aiming to decarbonise and foster environmental sustainability. The Action Plan would set out how the Council intended to realise its aims.

Work was planned with ECC and the University of Essex on developing new care tech ideas and products. Detailed plans would be produced to court investments.

A digital work hub would be created to serve small technology businesses, alongside a new training hub. Details were given of grants won to increase the amount of training provided locally. A bid for the second round of levelling up funding was described. This included £20m for the city centre, and was accompanied by a bid for £500k from the rural prosperity fund.

The wide range of partnerships was described, including with the North Essex Economic Board, the University and with Colchester Ambassadors. These partnerships supported start up business and firms conducting importing and exporting.

Colbea advised on how to reduce business costs and emissions, assisted by ECC.

The Strategic Economic Growth Manager confirmed that specific targets to improve life chances were a key priority for him. Regarding predictions and expected outcomes, caution was given that it was likely that the more specific predictions were, the less ambitious the plans would be. It was hard to predict the next three years, but the Strategy was to give a clear sense of what the Council would do and for what it would aim. Targets would be set for each year and progress reports produced. The Strategy committed the Council to areas of activity and annual targets would flow from that.

The Panel considered the Strategy in comparison to those of other local authorities and queried what the unique selling points were for Colchester's Strategy. It was asked whether similarities to other plans were inevitable. The Strategic Economic Growth Manager gave assurance that similarities were not surprising, given that tier 2 local authorities had the same powers as each other, the same core responsibilities and similar needs. It was elements such as the commitment to a real living wage which differentiated Colchester's Strategy from many others. The Council was performing well in achieving its targets and more information would be in the development plan and outcomes reports.

More information was requested on what would be done to encourage tourism and whether infrastructure such as the Rapid Transit System (RTS) would give opportunities for new conference facilities and tourist options. The Strategic Economic Growth Manager confirmed work would be conducted on encouraging tourism and visits, within the Strategy. Focus on specific sectors had been avoided in this Strategy, but a bespoke tourism strategy was being considered, as this was a crucial part of the local economy.

The positives shown by the Strategy were discussed, including work with the University and the growth figures shown compared to those elsewhere. Increased income and value could be used to lead to higher wages and salaries. Significant amounts had been spent on training and the tech sector already in the years examined, and large amounts of data gathered relating to this.

The Leader summarised the Strategy as a prospectus to lay out the Council's way ahead, utilising good data and good people to set how the City positioned itself. Partnership with others, including businesses, would be key and was much more effective than it had formerly been.

The Leader and officers were asked what the Council's approach would be towards the large scale migration of workers who lived in Colchester but worked elsewhere. Colchester benefited from the spending of their income, but not from their skills and labour. The Strategic Economic Growth Manager confirmed that

his team had considered this issue and that it was included within the evidence base for the Strategy. The move to home working was a widespread trend and move away from commuting. This represented an opportunity to keep people in higher-paid jobs based in Colchester, but also a challenge as individuals could reside here but work elsewhere.

The Deputy Leader noted that the delivery plan would likely give the details requested by the Panel and that it would be key to see the additional funding leveraged on the back of the funding awards won by the Council. The Chairman expressed the assurance that the Panel had received from the Strategic Economic Growth Manager that metrics would be included in the delivery plan.

The Chairman thanked the Strategic Economic Growth Manager and confirmed that the Panel noted the quality and thoroughness of the report and Strategy, and did not wish to make any formal recommendations to Cabinet.

#### Local Council Tax Support Scheme 2023/24

The Panel scrutinised the proposed Scheme at its meeting on 13 December 2022 and were briefed on the proposal to increase entitlement from 80% up to 85%. Around 5,500 households were affected, amongst those which had been most hit by UK economic problems. The cost of this change would be around £40k extra per year, expected to be recovered elsewhere such as by reducing write-offs and recovery costs. An overview was given of the consultation responses received.

The Panel discussed the importance of payment requirements being matched to ability to pay, with a need for increased generosity on the part of the Council at this time. In response to questions, the Benefits and Support Manager confirmed that there had been an increase in cancellations of direct debit orders in the past year. A Panel member suggested that direct debits could be promoted as being the easiest way to receive automatic payment of disbursements from Government, such as the recent £150 rebate on council tax, automatically paid to those who were on direct debit schemes.

The Panel agreed that the proposed changes were necessary, the additional cost was not large, and that the Scheme should be recommended for approval.

*RECOMMENDED* to CABINET that the proposed LCTS scheme for 2023/24 be approved.

#### Peer Challenge Review report and action plan

The Panel received a report from the Chief Operating Officer inviting it to consider the report on the Local Government Association (LGA) Peer Challenge Action Plan submitted to Cabinet and inviting it to make recommendations to Cabinet. The Chief Operating Officer attended the meeting to present the report and to assist the Panel.

The Chief Operating Officer stressed the importance and impartiality of the LGA Process. The Peer Review process was a key element of sector lead effectiveness and improvement. The Peer Challenge team was constituted of

senior Councillors and officers, and had met over 150 people over the course of three days. The team used a process known as triangulation whereby an issue had to be raised or mentioned three times before it was considered for inclusion in the review. The report and Action Plan addressed the key recommendations made by the Peer Review. The Peer Review Team had also given advice on a wide range of other issues which was being addressed and tracked internally.

Members of the Panel noted that not all the concerns raised by the Peer Review were addressed by the Action Plan, highlighting for example that the concerns around duplication of efforts across the different tiers of local government, scrutiny and diversity, and the recommendation that KPIs were reviewed were not referenced in the Action Plan. The Chief Operating Officer explained that the Key Performance Indicators were being reviewed so that they reflected the new financial realities. The revised KPIs would be reviewed by the Panel at its meeting in March 2023. The Chief Operating Officer reminded the Panel that the Action Plan addressed the key recommendations only and that other issues were being followed up and monitored. There was clear ownership of these issues by named officers. The document tracking these other issues would be circulated to the Panel following the meeting and could be reviewed the Panel in future if it wished. It could also recommend to Cabinet that other issues be included in the Action Plan if it felt they were particularly significant. The Peer Challenge team would review progress against their key recommendations in July, and it was open to the Panel to look again at progress against the Action Plan next municipal year, after this review had taken place.

The Panel indicated that it should look again at the Action Plan again in the next municipal year. It was satisfied that the Action Plan had picked up the most important issues identified by the Peer Review Team and that action was underway to deal with other advice and issues identified. The Panel did not consider that it was necessary to schedule a review of the work on the advice and issues below the key recommendations at this point. Members of the Panel could raise any issues they were concerned about once they had reviewed the tracking document.

The Panel then scrutinised each of the key recommendations in the Action Plan in turn:

1. Focus on City Status. Use this as an opportunity to galvanise partners, improve the Borough's economic and cultural strength and raise the voice of Colchester.
2. Get a firmer grip on the capital programme – manage all risks and improve your planning to ensure you have appropriate strategic finance, programme and project capacity and the resources to deliver.
3. Co-design a compelling and longer-term place based narrative/city vision to define Colchester for the future.
4. Strengthen your political and officer “leaders of place” roles and look beyond Colchester – map your anchor institutions, partners and stakeholders.
5. Review your priorities and projects and refocus on delivering “Brilliant Business As Usual” and strengthen your corporate resources.

6. Strongly consider whether changing your election cycle will help you achieve your goals, ambitions and deliver improved services for Colchester residents.
7. Better define with your staff what “hybrid working” means for Colchester City Council and provide a clear definition. Also clarify how the new Colchester City Council values will be designed and embedded, communicating to staff how these define the Council and will help achieve Colchester’s ambition.
8. Commission an independent review of Colchester Commercial Holdings Ltd and its subsidiaries, also undertake an internal review of Colchester Borough Homes to assess whether the companies are realising the benefits they were established to deliver.

The Panel noted that actions outlined and the proposed timetable in the Action Plan, It was noted that the actions were well underway and that the initial risk assessment of CCHL was due to be reported to Governance and Audit Committee on 17 February 2023. In the circumstances, the Panel did not consider that it was necessary to make a recommendation to Cabinet.

*RESOLVED* that the Panel review the Peer Review Action Plan again during the course of the 2033-24 municipal year.

*RECOMMENDED* to CABINET that it consider the following amendments to the Peer Review Action Plan:-

- (a) Recommendation 3 (Co-design a compelling and longer term place based narrative/city vision to define Colchester for the future) to be more clearly defined as it was wider than the sole reference to City Status in the Action Plan implied. It should include clear links to the Strategic Plan, City Centre Masterplan and legacy connections and other longer-term place based issues, such as public transport.
- (b) Recommendation 4 (Strengthen your political and officer “leaders of place” roles and look beyond Colchester – map your anchor institutions, partners and stakeholders) to include a wider reference to the role of all Councillors as community leaders and to explain how relationships with anchor institutions, partners and stakeholders would be strengthened following the mapping exercise.
- (c) Recommendation 5 (Review your priorities and projects and refocus on delivering “Brilliant Business as Usual” and strengthen your corporate resources) to highlight the linkages between the Strategic Plan and the budget and to show how resources will be matched to meet priorities.
- (d) Recommendation 6 (Strongly consider whether changing your election cycle will help you achieve your goals, ambitions, and deliver improved services for Colchester’s communities) to include a timeline and highlight the Boundary Commission review as an essential milestone in the timeline.

Budget setting for 2023-24

At its meeting on 24 January 2023, the Scrutiny Panel scrutinised the draft Budget 2023-24, Capital Programme and Medium-Term Financial Forecast. Members of Cabinet and senior officers presented the extreme financial challenges facing local authorities, and the efforts made to mitigate the worst impacts whilst producing a balanced budget for the coming financial year. The Panel were also informed of the reductions in service which Cabinet felt were necessary in order to produce a balanced budget.

The Panel discussed concerns regarding the reductions to Neighbourhood Services and members' wishes to have more details on these, including plans to charge for garden waste collection. Concerns over the plans to charge for garden waste collection were discussed, including the intention to commence this service in Winter, when demand would be at its lowest, rather than when demand was high and less elastic. The Scrutiny Panel considered impacts on recycling rates. The Leader of the Council and Chief Operating Officer offered additional detail and information on the expectations of uptake of the new collection service, and the budgetary effect expected.

The Panel discussed whether it had been provided with the necessary information to assess the Council's financial position, and the Chairman underlined the Panel's need to identify and then see figures which it considered to be necessary. A reasonable balance between of detail was needed, to ensure appropriate information was provided, but in an understandable way. The Leader of the Council agreed and emphasised the Administration's wish to be transparent, having already scheduled time to go through specific details with members who had voiced concerns. Any data requested would be provided if it were possible to do so.

The Panel discussed the transformative and non-transformative savings listed and the challenges presented in the Budget, where an increase in income had been dwarfed by inflationary costs.

Expected cuts to staffing were discussed and concerns raised that officers such as Zone Wardens should not be lost. Panel members asked for more information as to which jobs would be lost, especially in Neighbourhood Services. It was also noted that response rates in the customer service team were marked to be improved, but this was queried, given that restrictions were being imposed on overtime hours. Suggestions were made by Panel members that workplace levies and leasing of private car parks might be options which could save the Council money. The Leader of the Council agreed that it was important to have officers where they were needed and gave assurance that improvements in customer service response times would be possible with new best practice and improved technology. More information would be provided when possible. In Neighbourhood Services, the proposition was for ten posts to go, although not necessarily through forced redundancies. Richard Block, Chief Operating Officer, underlined how hard decisions had been, needing to look at all options for cutting costs. £13.8m expenditure was still planned for Neighbourhood Services and cuts in other areas would be even more extreme if the Council were to ringfence spending on Neighbourhood Services.

The Scrutiny Panel considered the proposed £50k savings from cuts to Environmental Health and asked if there were any ways to increase income to

avoid a need to reduce services. Mel Rundle, Safety and Protection Manager, explained the situation and gave assurances regarding the teams functions, which included private sector housing, food safety and environmental protection. It did not include licensing matters. The Team could not charge for work such as food safety and environmental protection, and savings were being sought by not replacing certain outgoing officers.

Regarding the proposed recruitment freeze, a Panel member noted that a vacancy factor assumption had already been made, and sometimes caused issues. The members of Cabinet were asked if the recruitment freeze would compound problems. The Panel heard that the vacancy factor allowance was a reflection of gaps between outgoing and incoming officers in roles. The freeze would mean that all vacancies would be reviewed as to whether replacement officers are needed. There would be a full assessment on each post affected. Based on a turnover rate of 15%, it was expected that this freeze would save around £500k. The Panel queried what effect this would have on morale. The Portfolio Holder for Resources explained that staff understood the severity of the budget position and wished to preserve or increase their salaries as far as possible. Officers clarified that recruitment would continue to roles where corporate risk would be increased if vacancies were maintained, or where roles are self-funded or funded from external sources.

A Panel member noted that the Council would be asking staff to take pay cuts, banning overtime and reducing fixed-term positions whilst increasing work pressures on officers, and expressed a preference for reducing the number of services provided, whilst maintaining staff conditions and improving the remaining services provided. The Portfolio Holder for Resources agreed that the Council was having to make the decision to do less, and explain the need for that decision to be made. The Leader explained that the changes to staffing followed the changes and reduction to the management team.

The Panel sought clarification on a wide range of points, seeking to understand and link the data shown across the various finance tables within the report and its appendices. Subjects scrutinised included the Council's pension commitments, treasury management strategy, use of reserves, contingencies for inflationary changes and the audit situation facing the Council and the local government sector.

The Panel, as a result of these considerations, requested and received a significant number of additional briefing notes to clarify aspects of the Council's finances. The Panel also recommended to Cabinet that more information and assurances be provided in the equality impact assessments which accompanied the Budget, that training be given to councillors on effective use of council reserves, that more information be provided on the proposals to charge for garden waste collection, and for pay inflation to be given more prominence in the Council's risk register.

### 2023-24 Housing Revenue Account estimates and Housing Investment Programme

On 24 January 2023, the Panel considered and discussed the reports provided which detailed the next year's rent increases, which were in line with

Government Policy, and the trading position of Colchester Borough Homes [CBH].

Darren Brown, Finance Manager (Business Partners), set out the proposals for 2023-24 and summarised the report provided. Government had introduced a limit on rent increases to seven percent in 2023-24. There were no indications of a similar restriction for 2024-25 yet. An overview was provided to the Panel of governmental policy changes, but the Finance Manager underlined that the main impacts had arisen from interest rates and high inflation.

The Asset Management Strategy [AMS] included the reviewing of outputs, and a report would be generated on this.

The Finance Manager explained the illustration of the debt curve in Appendix F, between years and to show the expected situations both with and without rent caps being in place. The Council aimed to maintain a healthy debt curve through the next 30 years.

The Panel considered the impact of rent caps, both positive for tenants, but also impacting on the Council and its income.

The Panel questioned and discussed matters such as:

- The management fee and services of Colchester Borough Homes
- Fluctuations in expected capital expenditure borrowing needs in future years
- The Heart of Greenstead Project

The Panel praised the high level of detail in the reports provided, stating that these were laid out in a way that was helpful for non-experts to understand, and approved the approaches and recommended decisions laid out for presentation to Cabinet for approval on 25 January 2023. Cabinet subsequently concurred and approved the recommended decisions.

## **Scrutiny Reviews at Colchester Borough Council**

The Scrutiny Panel held a number of reviews during 2022/23.

### Council Tax rebate

On 5 July 2022, the Panel examined how the Council was administering the rebate to assist residents with the increased costs of energy, having been requested by a Panel member at the Panel's meeting held on 7 June 2022. Councillor Cory, Portfolio Holder for Resources, and Samantha Preston, Group Manager – Customer, presented the report and expressed their thanks to the officers who had drawn up the scheme to make rebate payments and roll it out. A high percentage of eligible people paying Council Tax via direct debits had received their rebates. Officers were now focussing on identifying eligible Council Tax payers who did not use direct debits, and to use the options available to find ways to pay out the rebate. The discretionary payment scheme was explained, with details as to how it was and would be used.

The initial announcement of a Council Tax rebate was made in February, and it had been understood to be a challenging task to design and roll out a scheme for making rebate payments. The main challenge was that the Council Tax payment system had been designed to receive payments from the public, rather than to pay out funds. Officers had worked quickly to build this function into the system, then moving to identify eligible non-direct-debit payers of Council Tax and find appropriate ways to provide the rebate to them. An overview of this work was given, along with statistics relating to the percentages of claim rates by eligible Council Tax payers, with an estimated 8,000 residents to be contacted directly by officers to inform them as to how they can claim their rebate. The Panel was informed of the issues which had caused some eligible applicants to be rejected by the Government system, and the ways in which the Council was working to identify those who were in this situation and who were eligible to receive a rebate. Likewise, the Panel was informed of the Council's work to ensure that residents who were not able to engage online were not excluded and were informed of the ways in which they could receive their rebates. Work included direct contact and targeted communications aimed at reaching those who were hardest to contact.

£318k had been allocated for discrete payments to those in need who were not eligible for rebates from the main scheme. The Council was determined that all funding provided to it would be used to assist those residents who were in need. The Panel considered whether it might be useful for it to make recommendations to Cabinet to encourage Cabinet to ensure that no eligible residents were missed and that measures be in place to ensure that all discretionary funding was used to support residents in need. The Portfolio Holder for Resources gave assurance that the Council was already proceeding in line with these suggested recommendations and taking every measure possible, with a last resort being the crediting of individuals' Council Tax accounts with the rebate amounts, where all other options of payment had not been possible. This approach had been approved and the formal policy relating to the Council's payment of rebates would be amended to show this as soon as possible. Priority was being given to help those who were already in receipt of financial support from the Council. The Scrutiny Panel judged that, in light of the assurances given by the Portfolio Holder, recommendations at this stage would be unnecessary, but that they might be merited to show the confidence and approval that the Panel had gained from the assurances given to it.

A Panel member asked how residents could be directed to apply for discretionary funding, including in cases where Council Tax banding of a property was considered to be in need of review, and was told that this information could be provided by officers following the meeting.

*RECOMMENDED* to CABINET that: -

- a) Cabinet acknowledges and continues to approve of the measures being used by officers to identify those eligible for Council Tax rebates and to pay out these rebates, in line with the robust assurances provided to, and accepted by, the Scrutiny Panel
- b) Cabinet approves of the crediting of eligible Council Tax accounts, as a last resort and where other options for payment of a rebate have been exhausted

## Hythe Flooding

This report came to Scrutiny Panel on 5 July 2022 at the request of a Panel member, and that the report was an update on the partnership working underway to remedy the issue of flooding and an opportunity for the Panel to ascertain whether there was any value it could add by scrutinising the Council's approach. The information given did not suggest that any delays had been caused due to any lack of Council financial resource, or by extended decision-making.

Panel members described and discussed the membership of the Hythe Taskforce and its work. After one year of operation, complications had been found, such as the presence of fresh water flooding, with Distillery Lane and Bourne Pond contributing to the problem. Essex Highways and Anglian Water were suggested as responsible agents. Issues were then found with haphazard piping in place to deal with drainage. A Panel member urged all stakeholders to contribute to funding the solutions needed to these issues.

The results of a feasibility study relating to a possible temporary pump was still awaited. The Fire Authority had indicated that it was happy to have personnel on call to operate this as and when necessary.

Concern was raised by a Panel member that there was a lack of scrutiny of the Hythe Taskforce's work, and it was asked whether the funding pot for tackling Haven Road flooding could take section 106 funding contributions.

A Panel member outlined the background of the Hythe Taskforce, which had been brought together by The Honourable Will Quince, MP for Colchester, who sat as the Chairman of the Taskforce. The Taskforce aimed to facilitate cooperation between the agents which had the funding and expertise needed to end the flooding. A Panel member suggested that Will Quince could be invited to attend a future meeting of the Panel to explain the situation and answer questions. One member argued that the Council still had a responsibility to solve the flooding, given its historic operation of a port at the Hythe, and its continued holding of land in the area. The Council had sold off its dredger many years ago, with a lack of dredging suggested by a member as contributing to localised flooding. The Panel discussed whether to recommend that Cabinet took a lead on identifying what action to take and were informed that, whilst the MP's office was not in a position to offer scrutiny of the Hythe Taskforce, Scrutiny Panel had some ability, within its terms of reference, to scrutinise functions outside of those which were the responsibility of Cabinet.

The Panel considered whether it believed that actions were proceeding at an acceptable pace, or whether a scrutiny process could be undertaken whereby the Panel received regular reports, to ensure progress was made. A suggestion was also made that the Council could potentially offer project management services to assist the Taskforce, with the Panel making a recommendation to Cabinet to call for this to be offered. The Panel also discussed whether to recommend that Cabinet look to provide a temporary pump, however a consensus was reached that this was very unlikely to be agreed to, given the need for ongoing funding for its operation.

*RECOMMENDED* to CABINET that Cabinet offers to provide the project management skills of the Council to assist the multi-agency Hythe Task Force in its work and in its efforts to identify and secure the funds necessary to resolve the flooding in the Haven Road area.

### Bus Service Provision

On 5 July 2022, the Panel carried out a review of previous Scrutiny Panel considerations of local bus service provision, and aimed to assess whether a further review could add value.

The Panel considered whether it would be likely that local bus operators would participate in a third Scrutiny Panel review of bus provision, and whether the Panel could potentially make useful recommendations. Concern was raised by members that the Council had no powers over bus services and could not run its own services. It was accepted that sustainable transport was a vital issue for the Borough, but with very limited scope for the Panel to add value, it was argued by one member that the Panel should concentrate on issues where there was the potential for it to add value to the Council's actions or decision making. It was noted by another member that the Panel could examine whether the Local Plan and any associated Council policies or strategies were being carried out appropriately, including external plans and strategies for which the Council was a partner organisation, such as the Town Centre Masterplan.

The Panel considered whether it wished to recommend that Cabinet look at the issue of bus service provision, in the context of the major policies and strategies currently underway. Several members agreed that a larger-scale examination of the issues at play would be a significant job, but likely worth doing. One member of the Panel argued that there had been some success from past Scrutiny Panel reviews, albeit that there was little the Council could do to push for better bus services. Bus station provisions for Colchester was within the Town Centre Masterplan, which could come to the Panel for Scrutiny.

The Panel discussed possible ways to help increase bus usage, including deals, offers and a circular hopper bus system around central Colchester.

*RECOMMENDED* to CABINET that Cabinet conducts work to consider and examine the potential ways in which the Council can push for improved bus service provision through the Borough, and promote its use by the public, in the context of the Council's current and emerging strategic plans and policies.

### Review of Colchester Borough Homes: 2021-22 Performance

On 11 October 2022 the Panel welcomed guests from Colchester Borough Homes [CBH], and Councillor Julie Young, Portfolio Holder for Housing and Communities, to report on the performance of CBH during the preceding year.

the highlights and key points of the annual report being presented to the Panel. This covered subjects such as the demographic and diversity data relating to the Council's tenants, with an assurance that CBH used data effectively to inform and direct its work. The Panel were informed of the 35 homes which had had to be sold, under 'Right to Buy' provisions, as well as the 100 homes added

to the Council's stock through a variety of means. This project aimed to bring good-quality homes into use, with all homes brought into use via the scheme having an EPC [Energy Performance Certificate] rated C or better.

Overall, performance in the key areas monitored was rated as either 'good' or 'very good'. High satisfaction rates had been recorded, which compared well to the rates recorded by CBH's peers.

Problems had been experienced with average letting times, but the average time to re-let a property had reduced from the 30.96 days recorded in the report, and now stood at 23 days.

The Chief Executive provided an update on any eviction proceedings, explaining that Covid-19 had meant a protracted period when no court dates had been available, leading to a backlog. Whilst eviction proceedings remained the option of last resort for CBH, where this had proven necessary, the lengthened waiting time for court action had resulted in the accruing of rent arrears in those cases awaiting court proceedings.

The Panel were informed of the ongoing work to maintain the Council's housing stock and to ensure its quality, even in the face of challenges presented by a tough labour market, which also affected CBH's contractors. 99% of homes had now obtained an electrical safety certificate in the past five years. Building safety remained a priority, and would continue to do so, with CBH mindful of the Social Housing Regulation Bill currently before Parliament. This was expected to lead to more proactive regulation, inspections and additional requirements relating to the Company's key performance indicators [KPIs].

Examples were given of CBH's work in the Borough's communities, including engagement work with residents. More work was now able to take place in person, following the pandemic and end of lockdowns. CBH continued to listen to its tenants and engage with their views, widening the ways in which it did so, and having communication options open to all residents in Council homes.

The work of CBH in addressing, preventing and reducing homelessness was outlined. The Company's priority was to prevent homelessness. During 2020-21, 1,157 homelessness applications had been received by the Housing Solutions Team. 298 instances had been recorded where homelessness was prevented or relieved. 38 people had been helped through initiatives for reducing rough sleeping.

The Panel were briefed on the use of data by CBH to improve its services, with the Housemark benchmarking exercise showing that the company had provided good quality services at a low cost, in comparison to its peers within the region.

The Company's risk management approach, governance arrangements and Strategic Plan were outlined, with a focus on community engagement and outreach. Challenges included difficulties with staff retention in a competitive labour market. The Panel discussed the performance data given, seeking views on how benchmarking might change over the length of the company's Medium Term Delivery Plan. The Panel were informed that there would likely be additional pressure on rent collection, with arrears expected to rise as a result of

increased cost of living. Tenants were being affected by inflation, and ability to pay rent was decreasing. The company did however expect to maintain its performance level in comparison with peers. Increased costs might be experienced, including from dealing with increases in mental health problems and from rising costs of repair works.

The Panel queried the 2022-27 Delivery Plan and asked what assumptions had been made on the housing market and customers' ability to pay, and whether performance targets would need to be adjusted to take account of ongoing economic changes. The Panel were informed that CBH was being ambitious and had extended financial inclusion training to officers of the housing team. Challenges were being considered and plans drawn up to address them, including difficulties in contractor work, as a result of the economic climate. KPI targets were being based on benchmarking data and more information regarding assumptions made (relating to the Delivery Plan) could be circulated to members following the meeting, if they wished to see it. The Chairman requested that this be done.

The Management Agreement between CBC and CBH had previously been extended and was in place until August 2028, but CBH was planning further into the future. The provision of the next generation of housing was a key consideration. CBH would continue to work with Council colleagues and the Portfolio Holder to ensure that all housing KPIs continued to improve, as a key part of succeeding in providing a low-cost, high-quality service to the Council.

Regarding questions relating to CBH's pension liabilities, the Chairman directed that it would be unfair to insist on answers to be given at this meeting, given that this did not form part of the report before the Panel. Philip Sullivan, CBH Chief Executive addressed Councillor Sunnucks' concerns explaining the different deficits relating to the pension scheme, such as any deficits shown in the triennial valuation, which are often dealt with via an individual annual deficit payment, or a change in employer contribution, such as the last time this arose where the employer contribution was increased from 16% to 20%. The debt shown in the accounts was explained as an actuarial debt which would only materialise in the event of a 'cessation event', which would be a circumstance when every employee left the scheme.

The Panel questioned a range of aspects of the work of CBH, asking about the company's relationships with further education colleges, provision of apprenticeships and prioritising of people with local links for housing. The Chief Executive confirmed that the company offered apprenticeships, albeit wanting to do more, as well as being involved with training initiatives expected through the Garden Community project. Regarding prioritisations for housing, the company adhered to the legislation guiding assessments of need and homelessness duty. The Council and CBH worked well together to deal with rough sleeping locally and was one of 20 local authorities in the UK consistently recording that there were fewer than 10 rough sleepers in its area.

The Panel were told that the national policy pushing the sale of council housing was a problem and continued to hurt social housing. Added to this, the increase in mortgage costs would increase the problems caused by private landlords being less able to ease pressure on housing provision. Current national policies

weren't working, and the Chairman of the Board argued that the situation was putting lives at risk. The Portfolio Holder explained that the social value of housing is quantified in the procurement hub and that the Panel would receive a report in November on local links and how these related to lettings.

The Panel asked for information as to how housing officers and other staff were coping with stress, how many properties each officer covered and whether any areas had experienced recruitment problems. The Chief Executive agreed that a number of colleagues had been through difficult times, and the caseloads of housing officers had become more and more complex, with increasing challenges faced by residents. Each officer covered around 700 properties. Recruitment was difficult, and especially so in certain areas such as IT, asset management and specialist roles relating to electrical and mechanical work. The labour market was currently challenging. A member of the Panel raised concern that housing officers had workloads that were too heavy, which had increased whilst officer numbers had decreased. It was queried whether more officers could be recruited.

The Panel examined the relationship between Council and CBH and how much of this involved autonomous working, and how much was directed by the Council. The Chairman of the Board explained that shared services are being considered and confirmed that the Council set the pay scales for CBH too. The company wanted to deliver on the Council's priorities and work collaboratively, but problems with recruitment and retention were experienced due to the restraints on pay. The Portfolio affirmed Cabinet's commitment to working with CBH, with ways to get leaner service provision through collaborative working.

#### Family/local affiliation in letting and/or sale of local affordable housing and Gateway to Homechoice Allocations Policy

At the Panel meeting on 8 November 2022, Councillor Julie Young, Cabinet Member for Housing and Communities addressed the Panel ahead of the Officer presentation and spoke of the housing crisis that there was in Colchester and drew Members attention to paragraph 4.16 and the unintended consequences if any changes were made to the prioritisation. The Portfolio holder explained that the Councils approach was consistent with other authorities that the Council was in partnership with and advised Members that there was a pilot which was looking into the issue before the Committee. The Cabinet Member requested that the Scrutiny Panel withhold any recommendations until the pilot scheme had concluded and the results analysed.

The Committee heard that there were occasions where the local lettings policy came into play, but these were in very specific cases and drew Members attention to the fact that there was a focus on the 235 people in temporary accommodation and that there were currently around 3,000 households on the Housing register waiting list.

Council's housing allocation policy which was a legal requirement and detailed the prioritisation of need. The Panel heard that any change to the policy would relegate the importance of need when prioritising any other characteristic. The Housing Strategy Co-ordinator outlined that there were two options for securing

housing through local lettings plans and also through Section 106 agreements. Local lettings could be on new developments or existing homes and applied to the specified properties with the agreement of the owner and can help improve areas tackling anti-social behaviour and confirmed that this approach had been taken with new build homes. The officer advised that in Section 106 Agreements the number, type, and size of the affordable houses were agreed at the development stage and were a legally binding agreement. It was noted that the report included in appendix A details of shared ownership. Attention was drawn to paragraph 4.16 and the unintended consequences that could ensue and could lead to households with a higher need may have to wait longer if a Family/ local affiliation policy was introduced. The Officer informed Members that there were instances where there was no interest in properties with an example that a rural property was not near employment centres and public transport links wouldn't make a commute viable.

The Panel were informed that there was a pilot scheme underway in Layer de la Haye where family and local affiliation were being taken into account however it was noted that the pilot may have had more effect in a more built up area.

The Panel questioned the officers regarding the question of need and how this was assessed if someone had moved into the area. The Officer responded that all cases of homelessness had to be assessed under the five tests of homelessness and would be considered on that basis with banding levels taken into account as well as other circumstances which meant assessment on a case by case basis.

Members of the panel praised the Council's services for housing and the work that was being undertaken but were concerned that the efficiency of the team was causing an influx of people from outside of the borough to move into the area to find housing. The Housing Strategy Co-ordinator advised Members that the Gateway to Homechoice register allowed the team to review data of people arriving from other areas and noted that the Council exported more people than importing them into the Council's housing stock.

In response to further questions from the Panel the officer responded that a housing needs survey was carried out for all applicants where they could add preferences of where they would like to live. It was noted from further questions regarding the criteria for housing need that strong and weak affiliations with an area and people could be integrated but would also be conditional to other factors. The Panel heard that the pilot scheme currently underway had the criteria that the applicants had to live and work in the area so that transport issues could be avoided.

Members debated the content of the report noting that the final decision on this was not within the gift of the Panel and that the distortion of the system through the affiliation had some beneficial outcomes but could lead to the system becoming unmanageable and that the results of the pilot scheme should be assessed before making a recommendation.

*RESOLVED* that the report is noted by the panel and that when the outcome of the pilot scheme is available then the panel will consider whether it should be returned to the Panel for further consideration.

## **Monitoring of the Council's performance relating to its Strategic Plan Action Plan and Key Performance Indicator Targets**

The Scrutiny Panel reviews the Council's performance at regular intervals, receiving the following reports on the dates given:

### Year End 2021/22 Performance Report and Strategic Plan Action Plan [5 July 2022]

The Panel noted and discussed the ongoing issues relating to the time to relet council residential properties. The Assistant Director (Corporate and Improvement) agreed that the past year had been particularly difficult, in part because of Covid-related delays to the eviction process, which had led to the properties involved being more badly damaged by the tenants, increasing dilapidation and therefore requiring longer remedial works. It was suggested that this could be raised with Colchester Borough Homes when they next appeared before the Panel.

*RESOLVED* that the Panel noted the report's contents and were assured as to the explanations given for missed targets, with the exception of the target for building of affordable homes, which would be discussed in a different item.

### Year End April 2021 to March 2022 Performance Report 2020-2023 Strategic Plan Action Plan [5 July 2022]

Concern was voiced by one Panel member that the Plan, and its Action Plan, were too large and covered every operation undertaken by the Council, rather than showing a prioritisation. Priorities were hard to discern, given the breadth of the Plan. It was accepted that there would need to be a large Strategic Plan and Action Plan, to represent the work done by the Council, and with Full Council deciding upon the Plan, it was argued that Scrutiny Panel views on content and performance were important when setting and achieving targets. No recommendations were decided at this time, but the Chairman affirmed that the Panel would continue its monitoring and receive further progress reports.

*RESOLVED* that: -

- (a) Scrutiny Panel had confirmed satisfactory delivery against the Strategic Plan Action Plan and that the Council has made satisfactory progress in meeting its strategic goals;
- (b) Scrutiny Panel would conduct its usual mid-year scrutiny of progress and its normal monitoring activities through the municipal year.

### Half Year 2022-23 Performance Report [13 December 2022]

Caution was given that, given the financial pressures, there was a need to examine budget consequences from where extremely high performance was achieved, and the opportunity cost of increasing performance in different areas. Panel members agreed with the importance of balancing performance achievements with the draw they required on officers and finances.

The Panel considered the performance indicators and it was noted that most of the 'red' KPI figures had been habitually so, and for understandable reasons. Performance on sickness leave was discussed, attributable to a number of reasons. The Panel accepted that the causes of sickness levels were not being ignored.

The Panel considered performance in collection of garden waste. It was suggested that not all residents could compost all garden waste. Richard Block, Chief Operating Officer, explained that collection of garden waste would become a statutory duty, via the Environment Act 2021, and that the Council would need to consider whether or not to charge for collections.

*RESOLVED* that the Scrutiny Panel has reviewed performance against Key Performance Indicators and, where Key Performance Indicators have not been met, ascertained that appropriate corrective action has been taken.

#### Strategic Plan Action Plan progress [13 December 2022]

The Panel considered the report and the Chairman noted that no major issues were evident within it, and that any recommendations to Cabinet should only be on major issues.

A Panel member highlighted that the inflation assumption for this year had been set at 2% and that the difference between assumption and reality had serious implications for the Council. The Council continued to do its best in very difficult circumstances, but it was impossible to provide the same services on a smaller income and with higher costs. An example given was Leisure World, where energy costs were much higher and income to the Council therefore lowered.

The Leader explained that the time lag between crises and effects meant that it was likely that effects of the 'cost of living crisis' would be reflected in the coming municipal year and the new Strategic Plan. The Council was just managing at present, but services at current levels could not continue indefinitely, with the Council mindful of the stresses on residents that council tax had.

The Panel agreed that, at present, there were no areas of concern on which it wished to make recommendations.

#### **Partnership arrangements**

During 2022-23, the Scrutiny Panel conducted the following reviews of subjects involving partnership working between the Council and other organisations.

#### Business cases of Town Deal Projects

The Scrutiny Panel spent much time reviewing and examining work occurring with partners on delivering the Town Deal projects. On 7 June 2022 the Panel discussed how best to do this, and laid out expectations for reporting and future scrutiny sessions.

On 8 November 2022, the Panel received a detailed report on the progress made on the different projects within the Town Deal. The Executive Director for Place presented the report to the Panel and explained that 14 projects were currently underway with eight being led by partners, but which were ultimately accountable to the Council. It was noted that there was a strong governance structure in place with a large amount of engagement on projects, most notably with Jumbo. The Panel heard that business cases had been submitted in March 2022 to the Department for Levelling Up, Housing and Communities (DLUC) and permission had been given to proceed in August 2022 with the initial funding being provided.

It was noted that the RAG risk approach was currently on amber as some of projects were very complex. The Executive Director for Place confirmed that the risks linked to the projects were reviewed on a continual basis with the main concerns being around escalating costs for labour as well as unexpected delays with supplies. The Panel heard that one of the largest risks was associated with the land acquisition in the heart of Greenstead but that there was no update to give on this. The panel were informed that the aim was to contain any cost issues and that there had been a contribution from Colchester Borough Council for St Nicolas Square which had accelerated the project however it was detailed that archaeology costs had risen. The projects were also being looked at in alignment to try and create efficiencies where it was possible.

The Executive Director for Place explained to the Panel that there was significant oversight of the works from the Town Deal Board and from the Section 151 Officer which had to report into DLUC every six months with progress of the projects. It was noted that there were no significant risks that would compromise the projects and outlined a range of details on each of the projects.

The Panel raised questions on the report and its emphasis upon deprivation and the areas that the projects were targeted and what evidence was there that they would materially affect deprivation in those areas. Questions were raised regarding the completed projects such as those at the Mercury Theatre and how these would contribute to ending deprivation as well as whether the projects that were being undertaken as they could be easily completed.

The Panel heard that the heart of Greenstead project was a £40 million investment which could make a significant difference and intervene to improve skills. It was noted that the Holy Trinity Church Scheme would be offering services to those who were most in need and the Cycling Hub helped provide transport for those who were on a lower income. The Panel heard that the proposals for the digital skills hub would help people to retrain and give them access to digital skills.

The Panel queried whether match funding was being sought on projects as this had been a key aim within the Fund and heard that additional funding was being sought wherever possible and elaborated that there had been an Active Travel fund of £5 million as well as a possible £5 million from the Heritage Lottery Fund. It was noted that Greenstead's match funding was also through Housing Revenue Account (HRA) which would provide long term regeneration of the area. Concern was raised by the Committee over the lack of key performance

indicators for the projects and match funding. The Economic Regeneration Manager responded that there were no specific requirements for match funding or additional funding but commented that as it was only 2 months into the delivery of the project other opportunities may become available. The Executive Director for Place advised Members that the Council would bid for any funding that arose and that a report could be brought back to the Panel on where additional funding was being sought.

Questions were raised from the Panel on the role of the signage changes for the City Status and it was confirmed that this was part of the City Status work plan and further information on this would be provided to the Committee.

A further question was raised regarding the Council's capital programme difficulties and whether it was linked to the Town Deal and would this cause issues for any of the projects. It was confirmed by officers that the review of the Capital Programme had started but outlined that the majority of the projects were not reliant on the programme and were funded.

Future updates were scheduled for the Panel to consider Town Deal progress, with the next update due at the Panel meeting on 15 March 2023.

#### Review of Arts Organisations in receipt of Council funding.

The Scrutiny Panel had previously held an annual session to hear from the local arts organisations which receive Council funding, namely The Mercury Theatre, FirstSite and the Colchester Arts Centre.

In 2022, the Panel decided to recommend that an all-councillor briefing be held on the work of the arts organisations, rather than a formal scrutiny session. This was in response to a change in the funding arrangements, which moved to a quadrennial awarding process for funding and away from an annual award.

#### One Colchester Partnership

In 2021-22, the Scrutiny Panel requested the opportunity to question officers of the Council and representatives of One Colchester Partnership and to scrutinise the governance and oversight arrangements introduced when the Safer Colchester Partnership was moved to fall under the oversight of the One Colchester Partnership. A scrutiny session for this was arranged for the Panel's meeting on 15 March 2022, however this was postponed until 2022-23. A wider session for the Panel to hear about and consider the full range of operations and governance arrangements for the Partnership was then arranged for the Panel's meeting on 14 March 2023.

#### **Portfolio Holder Briefings**

During 2022-23, the Scrutiny Panel scheduled the following briefings from members of the Cabinet, to be delivered at the Panel's meetings as shown below. Given a new Administration formed after the Borough Council elections held in May 2022, the Panel directed that these only be scheduled in the latter part of the municipal year, to allow Portfolio Holders time to settle in to their new positions:

- Briefing from Cllr Julie Young, Portfolio Holder for Housing and Communities [11 October 2022]
- Briefing from Deputy Leader of the Council and Portfolio Holder for Local Economy and Transformation [13 December 2022]
- Briefing from Portfolio Holder for Resources [24 January 2023]
- Briefing from Portfolio Holder for Culture and Heritage [14 February 2023]
- Briefing by the Leader of the Council [14 February 2023]
- Briefing by Portfolio Holder for Planning and Infrastructure [14 March 2023]
- Briefing by Portfolio Holder for Neighbourhood Services and Waste [15 March 2023]
- Briefing by Portfolio Holder for Environment and Sustainability [15 March 2023]

These briefings were arranged for Portfolio Holders to provide an overview of the work ongoing within their remits, and the main challenges being faced. They also gave the Scrutiny Panel an opportunity to specify particular issues on which members might wish to conduct 'deep dive' scrutiny, going in to more detail. Particular focus was given to actions or work for which the Portfolio Holders were personally responsible.

Whilst these briefings were mainly to facilitate the ability for the Panel's information, they did allow for the Panel to make recommendations to Cabinet or individual Portfolio Holders, and to make resolutions. The following resolution was made on 24 January 2023, resulting from the briefing from the Portfolio Holder for Resources:

*RESOLVED* that the Head of Finance would circulate a confidential briefing note to members of Scrutiny Panel on the current financial position of the Turnstone project and any potential accounting issues in advance of Full Council's consideration of the Budget for 2023-24

The Panel duly received the necessary confidential briefing paper from the Section 151 Officer, which in turn led to the Panel scheduling an item for it to scrutinise the strip leasing arrangements within the Turnstone project. This was scheduled for confidential session [due to commercial sensitivity] at the Scrutiny Panel meeting on 15 March 2023.

The minutes covering the Portfolio Holder briefings above are available on the Council's website here: [: Colchester Borough Council \(cmis.uk.com\)](https://www.colchester.gov.uk/cmis).

### **Scrutiny Panel operating as Crime & Disorder Committee**

The Scrutiny Panel was due to sit as the Crime and Disorder Committee to review the performance and operation of the Safer Colchester Partnership on 13 September 2022. This meeting was moved to 7 November 2022, as the original date fell within the period of national mourning for Her Late Majesty, Queen Elizabeth II.

The review held by the Crime and Disorder Committee provided information on the work of the Safer Colchester Partnership during 2022-23, and provided updates from partner organisations covering their work over the year. Additional detail was given on work done to tackle priorities, such as reducing exploitation, 'hidden harms', domestic abuse and violence and tackling County Lines gangs.

The Committee conducted scrutiny of the work of the Police, discussing the approaches taken to address urban and rural crime and antisocial behaviour. This included use of the Strategic Policing Plan to address hotspots and use prevention methods to stop offences being committed. 27 County Lines gangs had been wound up in the 12 months leading up to this meeting and partnership working with other police services (including the Metropolitan Police) had yielded significant success. The Committee were told of the use of information/data by the Police to more-effectively target offenders and deal with offences.

### **Councillor Call for Action (CCfA)**

There were no CCfA issues brought to the attention of Scrutiny Panel during 2022/23.

### **Task and Finish Groups**

There were no Task and Finish Groups commissioned by the Scrutiny Panel 2023/23.

### **Appendix**

Appendix A – Schedule of Meetings and Reviews for 2022/23.

## Schedule of meetings and reviews

### Scrutiny Panel 2022/23

Councillor Willetts (Chairman)\*, Councillor Lissimore (Deputy Chairman)\*,  
Councillor Laws, Councillor Lilley, Councillor McCarthy, Councillor Scordis, Councillor Smith.

<b>7 June 2022</b>	<ul style="list-style-type: none"> <li>• Work Programme 2022-23</li> <li>• Town Deal Reporting</li> </ul>
<b>5 July 2022</b>	<ul style="list-style-type: none"> <li>• Council's disbursement of rebate payments on Council Tax</li> <li>• Year End 2021/22 Performance Report and Strategic Plan Action Plan</li> <li>• Housing Strategy</li> <li>• Annual Scrutiny Report</li> <li>• Briefing note on Hythe Flooding</li> <li>• Recap report on previous Scrutiny Panel reviews of local bus services</li> <li>• Work Programme 2022-23</li> </ul>
<b>16 August 2022</b>	<b>Meeting cancelled due to lack of business [caused by deferral of items to later meetings]</b>
<b>13 September 2022 (Crime and Disorder Committee)</b>	<b>Meeting postponed until 7 November 2022 due to the period of national mourning for Her Late Majesty</b>
<b>11 October 2022</b>	<ul style="list-style-type: none"> <li>• Briefing from Cllr Julie Young, Portfolio Holder for Housing and Communities</li> <li>• <del>Economic Growth Strategy</del> Deferred</li> <li>• Review of Colchester Borough Homes: 2021-22 Performance, and discussion of Key Performance Indicator Targets for '23-24</li> <li>• Work Programme 2022-23</li> </ul>
<b>7 November 2022 (Crime and Disorder Committee)</b>	<ul style="list-style-type: none"> <li>• Safer Colchester Partnership (Crime and Disorder Committee)</li> </ul>
<b>8 November 2022</b>	<ul style="list-style-type: none"> <li>• Update on Town Deal projects' progress</li> <li>• Family/local affiliation in letting and/or sale of local affordable housing and Gateway to Homechoice Allocations Policy</li> <li>• Work Programme 2022-23</li> </ul>

<b>13 December 2022</b>	<ul style="list-style-type: none"> <li>• Briefing by Deputy Leader of the Council and Portfolio Holder for Local Economy and Transformation</li> <li>• Draft Economic Strategy [Was due to come before Scrutiny Panel on 16 August 2022 and then 11 October 2022 but delayed to 13 December 2022]</li> <li>• Half Year 2022-23 Performance Report</li> <li>• Strategic Plan Action Plan progress</li> <li>• Local Council Tax Support – Year 2023/24</li> <li>• Work Programme 2022-23</li> </ul>
<b>16 January 2023</b>	<ul style="list-style-type: none"> <li>• Peer Challenge Review report and action plan</li> <li>• Work Programme 2022-23</li> </ul>
<b>24 January 2023</b>	<ul style="list-style-type: none"> <li>• Briefing by Portfolio Holder for Resources [focus on Budget 2023-24]</li> <li>• Budget Strategy for 2023-24</li> <li>• 2023-24 Revenue Budget, Capital Programme, Medium Term Financial Forecast and Treasury Management Investment Strategy</li> <li>• Housing Revenue Accounts Estimate and Housing Investment Programme</li> <li>• Work Programme 2022-23</li> </ul>
<b>14 February 2023</b>	<ul style="list-style-type: none"> <li>• Briefing by Portfolio Holder for Culture and Heritage</li> <li>• Briefing by the Leader of the Council</li> <li>• <del>Corporate Key Performance Indicator Targets for 2022-23.</del> Deferred due to drafting of new Strategic Plan</li> <li>• Work Programme 2022-23</li> </ul>
<b>3 March 2023</b>	<ul style="list-style-type: none"> <li>• Call in of decision taken by the Portfolio Holder for Neighbourhood Services and Waste – ‘Review of Saturday Household Drop-off Service’</li> </ul>
<b>14 March 2023</b>	<ul style="list-style-type: none"> <li>• Briefing by Portfolio Holder for Planning and Infrastructure</li> <li>• Collection of Section 106 developer contributions</li> <li>• One Colchester Partnership</li> <li>• Scrutiny Panel Annual Report</li> <li>• Work Programme 2022-23</li> </ul>

**15 March 2023**

- Briefing by Portfolio Holder for Neighbourhood Services and Waste
- Briefing by Portfolio Holder for Environment and Sustainability
- Town Deal projects progress report
- City Status Programme

18 January 2023

<b>Report of</b>	<b>Licensing, Food &amp; Safety Manager</b>	<b>Author</b>	<b>Jon Ruder</b>
<b>Title</b>	<b>Card Machines in Licensed Vehicles</b>		<b>☎ 282840</b>
<b>Wards affected</b>	Not applicable		

**1. Executive Summary**

- 1.1 This report sets out the responses to the consultation on the proposal to change the Council’s Hackney Carriage and Private Hire Licensing Policy to require all licensed vehicles to be fitted with the means to accept electronic payments in addition to cash.

**2. Recommended Decision**

- 2.1 To determine whether to recommend to full Council that the Council’s Hackney Carriage and Private Hire Licensing Policy be amended to require licensed vehicles to be fitted with the means to accept electronic payments in addition to cash.

**3. Reason for Recommended Decision**

- 3.1 The Council has committed to keeping the Hackney Carriage and Private Hire Licensing Policy under review to ensure that it remains fit for purpose and is responsive to the changing licensing environment.
- 3.2 Card payments have become the norm for a large percentage of the population, and it is considered that the requirement to have card facilities should be included within the Policy. Many drivers/operators already make provision for electronic payments but there is disparity across the trade which is causing problems for some customers and in the case of hackney carriage vehicles, compromises the principle that the taxi at the head of the rank, takes the next fare. The refusal of fares by the driver at the head of the rank because they are unable to take card payments is another source of complaint to the Council.

**4. Alternative Options**

- 4.1 To leave the Hackney Carriage and Private Hire Licensing Policy unaltered.

## **5. Background Information**

- 5.1 Consultation with the trade was carried out over a period of 6 weeks. Responses can be seen in Appendix 1 (abbreviated version) and Appendix 2 (full response emails)
- 5.2 Out of the 48 responses, 36 were in favour, 6 were against and 6 were undecided.

## **6. Proposed amendments to the Policy**

- 6.1 Paragraph 21 be amended to read -

21.1 Vehicles must be fitted with the means to accept electronic payments in addition to cash. The vehicle must have a Colchester City Council approved card payment terminal (see 21.2 below) which can accept payment by credit and debit card. In relation to private hire vehicles, the payment option must be linked to the Operator's booking App or booking system.

### 21.2 Approved Card Payment methods

Barclaycard payment/App  
Cab:app Ltd (Miura M010)  
Cabvision Network Ltd (Ingenico)  
Elavon  
Farepay Ltd (Miura M010)  
Ingenico  
iZettle (Miura M010)  
LoPay  
Payataxi (Miura M010)  
PayPal (Miura M010)  
SquareApp  
SumUp (Miura M010)  
Viva Wallet  
Worldpay

Further card payment methods/Apps may be used upon application to, and approval by, the Council.

21.3 The Council considers the card payment facility to be part of the vehicle and as such it must be working at all times.

21.4 The vehicle must display the Colchester City Council approved stickers on both the rear passenger window and inside the vehicles indicating that debit and credit card payments are now taken.

21.5 If the means of making electronic payments is not working this must be reported immediately to the Council. The Council must be notified when any problems have been resolved and the payment facility is again operational.

21.6 If there is concern that the electronic payment facility may not work at the destination point, a fare may be agreed and paid in advance for the journey. This is permitted on condition that the meter is used, and if the metered charge is less than the agreed payment for the journey, the overpayment is refunded.

**7. Financial implications**

- 7.1 There will be a cost to the Council as a result of the Policy change in relation to the production of stickers for the vehicles which can be recovered through the annual fee. This cost is estimated to be £1000.
- 7.2 It is not possible to give the exact costs to be met by the licence holders as these will depend on the device used and the transaction charges levied. However, it is anticipated that the cost of the payment device will be in the region of £100. A small charge of around 1.6% is then made for each transaction. The monthly cost will depend on the amount of business transacted.

**8. Suggested implementation programme**

- 8.1 It is suggested that, in the event the decision is taken to proceed with the change, a 3 month period will be given for compliance from the date of final approval.

**9. Changes to the Penalty Point Scheme**

- 9.1 The penalty point scheme would need to be revised to carry a penalty for failing to comply with the requirements of Section 21.

<b>113</b>	Failure to comply with the requirements relating to the provision and/or operation of a card payment device		x	x	x
	1 <sup>st</sup> offence	4			
	2 <sup>nd</sup> offence	8			
	3 <sup>rd</sup> offence	12			

**10. Equality, Diversity and Human Rights implications**

- 10.1 There are no equality and diversity considerations or human rights implications of the decision to consult on requiring electronic payment means in licensed vehicles.

**11. Publicity Considerations**

- 11.1 The proposed introduction of card machines in licensed vehicles has already been the subject of a six-week consultation and the comments received are set out in this report. Notwithstanding this, there may still be positive and negative publicity in relation to this matter from the public and the trade when a final decision is reached. If the decision is taken to proceed the Council will carry out some publicity on this matter to raise public awareness.

**12. Standard References**

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

Appendix 1			Consultation Feedback notes		
Total number of responses 48					
Number	In favour	No	Comments Issues	Card Payments machines mentioned	CCC Comments
	Yes	No			
1	x		Issue around surcharges. Also forcing them to have a card machine.		It is not being said that only card machines can be used but rather they must be available as a permanent enabling payment by cash or card. In relation to surcharges the law does not allow for this.
2		x	Financial cost implications		
3	x				
4	x		Already accepts CP		
5	x		Already accepts CP		
6	x		Already accepts CP	LoPay, Sum up	Need to consider adding these on and not limiting to the ones suggested.
7	x		Already accepts CP	Elavon	as 11
8	x		Already accepts CP	Sumup	as 11
9	x		Already accepts CP	Square App	as 11
10	x		Already accepts CP		as 11
11	x		Already accepts CP	Square App	as 11
12	x		Already accepts CP	Sumup	as 11
13	x		Already accepts CP Reservations about signal outage and fraudulent miss use		In relation to fraud and non-payment. They would be theft and fall under the Police remit, if reported
14	x		Ensure that enforcement is fair in relation to card machines		
15	x		Already Accepts CP	Izettle	as 11
16	x		Already Accepts CP	Izettle, Worldpay	as 11

17	x		Already Accepts CP	Square App	as 11
18	x		Issue about cash and cards	Izettle	Both can be offered, neither can be refused
19	x		Already Accepts CP. Concern about PHD taking payments	Izettle, PayPal and Sumup	Note. All Drivers for PH must go through the operator in terms of the booking and cost payment can still be made by the app of the operators choice. Believe this is the method now.
20	x		Already accepts CP	Square App	as 11
21	x		Already accepts CP		
22	x		Already accepts CP	Square App	as 11
23	-		Not concerns of payment, black spots and runners		Phones when paid mark when payment made out of signal range so that the bank and phone know a payment is made. Can only be challenge by complaining to the bank. Same I believe applies to cards. In relation to runners then need to report to the Police as this is theft.
24	x		Already Accepts CP	Square App	as 11
25	x		Already Accepts CP	Sumup	as 11
26	x				
27	-				
28	x		Already Accepts CP	Square App	as 11
29	x		Already Accepts CP. Concern about those who don't and should	Sum Up	Note re -enforcement
30	-		Wants Square App included		as 11
31	x		Already Accepts CP	Sum Up	as 11
32	x		Already Accepts CP	Square App	as 11
33	x		Already Accepts CP	Square SumUp	as 11
34	x		Already Accepts CP	Square SumUp	as 11
35	-		Wants Barclaycard added	Barclaycard payment	as 11

36	x		Already Accepts CP. Concern about payment upfront		This is already allowed. In HC can ask for payment upfront but must have metre on. If cost is less, then must refund. PH Operator agrees price
37	x		Already Accepts CP		
38	x		Wants it to be introduced ASAP. Concern about enforcement		Need to ensure Council Policy includes the enforcement of Card machines
39	x		Already Accepts CP	SumUp	as 11
40	x		Already Accepts CP	Square	as 11
41		x	Already Accepts CP but concerns about abuse of the system		Misunderstanding regard, the issue of still being able to pay with cash. We are not saying that card payments are the only way to pay we are saying that they must always be available as another method hence making them compulsory in HC and PHV
42	x		Already Accepts CP. Suggested that refunds etc can be dealt with by surcharges		Need to understand what this means
43		x	Concerns about payment, and connection		see above
44		x	Concern about payments and not being forced		Policy allows us to make this decision However, agreement with Committee and full Council is required
45	-		Already Accepts CP but has concerns		

46	-		Already Accepts CP Concerns about how we can enforce HC and PH to take payment when shops can demand cash only. Wants to see proof		Not refer to Police and conditions. We do not licence shops for the purposes of payment. Complaints about individual drivers etc are private
47		x	As 43		
48		x	As 43		
<b>Total</b>	<b>Yes 36</b>	<b>No 6</b>			
<b>Undecided</b>	<b>6</b>				

## Appendix (2)

Comments from Drivers, Proprietors and Operators in relation to the Card machine consultation. Taken from Emails. Note: Detail contained here. Spreadsheet abbreviated look (Appendix 1)

- 1) Firstly I'd like to know why as an owner/operator of a taxi company I have to find out about these proposals via the local gutter press and social media !

Whilst I am in agreement that card machines should be an option their forced use should not. All my drivers do have card machines and are used where necessary but since the change of laws a while ago about not being able to pass on card charges even I am reluctant to use them as its costing me money both to own a machine and use. I would estimate this year has so far cost me over £1000 in charges !

Next your list of allowed machines there are many types of machine but you seem to have only listed one model of which I cannot actually find that model available on many of these providers. Currently most of my drivers are using the sum up air machine which is perfectly up to the job.

Will the use of card machines be forced on other businesses licenced by the council i.e. chinese restaurants and fish and chip shops for example. ??if not why not, are taxi drivers being discriminated against ??

We as business owners should have the right to choose the method of payment we accept and should not be dictated to, this is going against our human rights, I can no longer buy a coffee for cash in Starbucks so I choose to use other business , customers can do the same , if they want to pay buy card they can use a business that accept cards, its freedom of choice for both the business and the customer , simple economics. !

With regards to the CCTV according to the local rag and Darius Laws this is set to be implemented soon ??

- 2) Hi Jon

Can you confirm me these new rules starting date?

I personally think it's not a good idea to force this law due to extra financial burden when taxi business are not going very well and also more stress while working due to technology involvement.

- 3) Ok, but so many rules it's worse than the army for a little return some weeks

- 4) Hi  
I already accept card payments

- 5) I have a card machine in my car already and think it's the way to go moving forward

- 6) Hello,

I already accept card payments but it's using LoPay which isn't in the approved list. I do also have a SumUp reader but have had some issues with taking payment where the

system was down for a few days. Also LoPay is cheaper and transfers the money quicker.

7) We think it is a very good idea.

We use the Elavon system for Card and Contactless transactions. It is safe, secure, has the Data Protection systems setup already and users have to conform to the Data Protection rules on a yearly basis. It is a very economical, well managed system as would be expected from a global leader. It also has a Virtual Terminal facility which is extremely useful for pre-payment situations and a full set of reporting functions for auditing purposes.

8) Hello there

Thanks for your email.

I personally use Sumup and I think it is a faster and more reliable payment method as opposed to cash.

I hope this is satisfactory.

9) Please can you add Square Card payment because we have been using it for the past five years without any problem. Thanks

10) Dear Sir

all our drivers carry card payment machines.

11) Good Evening Jon

I been doing card payments for nearly 10 years now. I have a square terminal & I have stickers in my windows and magnet doors signs saying card payments & contactless preferred & no cash.

Card payments makes my life easier as I don't carry cash anymore and I feel safer that way. At the start of every journey I get the customers to tap my square terminal before I start the journey.

And once I finish my shift I do an instant deposit straight into my bank with in 20 minutes.

12) Hi just got and read the email and i have a card machine it's a sum up one and had it a couple years now and have the cabby app to which they can pay on the app if need

13) I use sump already for few years since covid 19, do I like it? no! some places it works some don't and does incur charges which means every year the costs of expenses is going up and the volume of work below average as people don't wine and dine, if they don't wine and dine is no need for taxi, the cards are all tap now days someone might find one or steal one and still be able to use it we risk of being charged with fraud or we definitely loose the payment as the banks can claim it back it's not safe it convenient it's a must thing now to fulfil customers needs that's how the life is moving forward and we have to adopt to it that's my opinion

14) Yes I think card machine are a good way of payment, as long as the drivers who refuse to take people because it card or they say there card machine isn't working are punished.

15) I think all cars should be using card payments, I think 90% of my jobs are already card! I use square as it's an instant same day transfer to my bank and low fees! I've used izettle and it's not very good you can wait up to 5 days for the money!! I get complaints in my cab all the time about drivers not using the card machine because the driver has said they can't have the money going into their accounts because of the tax man! I think it's time to put a stop to this as it's not fair to people like me who are doing it the right way and it's not fair on the customer.

16) Dear Licensing,

From my own point of view, we have been taking card payments in our vehicles for some years now and have always seen this as a must have, especially from a business point of view, it makes complete sense especially in the Executive Car industry which I admit does differ substantially from the standard 'Private Hire' Taxi trade.

We have used various different terminals over the years, from PayPal, Worldpay & I-Zettle.

We've now been settled with 'Sumup' as our primary preferred supplier due to their low charges of only 1.69% on all automated payments, the only pitfall is they do not take manual card payments (Card not present) which I believe I-zettle do, albeit at a higher charge rate due to the increased risk.

I have heard drivers complaining that they are not happy to have to absorb the card charges on all retail payments as per the change in the law a couple of years back. What they fail to realise, and perhaps the Council could inform them on this is that -

1: Having this facility will greatly increase the turnover of clients using their service, as many people don't carry cash these days.

2: The card charges that apply cannot be passed onto any UK debit/credit card holders. However the card charges 'Can' be passed onto 'anyone' wanting to pay by business or corporate card and can also apply to foreign card transactions as long as the vendor does not make any profit from the transaction.

(e.g - if a card machine supplier charges 1.69%, a driver cannot charge 3% on top of the standard fare).

From our business model point of view it's a win win and we would be losing considerable business by not having this as a facility.

17) Hi

I have accepted card payments for many years and I use the Square app which is a very popular card app but it is not on your list. The majority of the taxi drivers use this app, can we include it on your list?

18) Long over due in my opinion.

I get customers telling me drivers are becoming aggressive and I have experienced this myself. They only comply when I challenge them and tell them I am a Minicab driver in the town. Even though they have them they tell the customer it is not working.

On the flip side cash should also be accepted, there is at least one driver who refuses cash at all times which causes a problem to older customers and customers who do not have cards for personal reasons.

19) I all ready use card payment facilities .( Square point of sale system and would ask that this is added to the approved list )

I agree that all hackney carriage taxi,s should have the ability to take and accept debit card and credit card payments . And that all private hire operators should offer the same facilities.

However I don't think that all private hire driver,s should have the opportunity to take payments only the operators that supply there work . If private hire drivers are allowed card payment options this leave the system open to being used if the driver picks up with out being pre booked over the phone and will encourage drivers to pick up fairs from the side of the road with out it being pre booked. I believe that there should be a rule stating that no driver can save or record customer,s card details . And a electric receipt should be available to all customers if required or requested .

As for introduction of this It should be done with in a month of the council making it part of the terms and conditions.

There is no great financial outlay to get and use card payment facilities. There are a range of services available that are as cheap as £29.00 pounds .

20) To whom it may concern,

In regards to drivers taking card payment. For myself I am more than up for taking card payment.

I've had a card machine now for 4 years and love it!. But in that 4 years I've had various different card terminals from Izettle, PayPal and Sumup and one with my bank Barclays. They were ok, main issue I had with them was signal followed by not working and had to order new one as time went on. for the last 2 years now I've been using SQUARE. Never had any issues with the card terminal and always had signal too. With this square you can create invoices, you can see your taking from 1 day all the way up to 1year what is great for doing your income.

So could you please add SQUARE to this list as I think it's the best out there and I know of a lot of drivers who use this one too.

21) Hi

Yes All cars should have the card payment facility.

I've had customers complain that some taxis don't have this facility.

I purchased a sum up machine for £19 nearly 3 years ago and the cost is only 1.69% on transactions.

This cost is tax deductible and saves time, as I no longer have to take cash to pay in at the bank.

It will be good to see card machines made mandatory.

22) For the past 2 years I've been using square up so would like that added to list of approved devices.

These devices don't take long to arrive and set up so wouldn't need a long implementation period

Many of the drivers are equipped to take cards but they ask the customer first where they're going and if it's a small journey they say no don't take card but if it's a big job they do. I've seen this happen many times on the rank and is something that needs to be addressed.

Also I'm concerned that if private hire drivers start having card machines that this will increase the 'specking' where they just pick anyone up whether pre booked or not. If their

customer wants to pay on card then surely when they make the booking with the private hire controller they can pre pay over the phone or on the private hires app.

23) Thanks to asking views about card payment i would like to highlight some facts  
1.I take card payments using mobile network some areas in colchester network is very bad like  
Solar estate,st Michael estate,layer de la haye,  
Holt drive (blackheath),mersea island,rohedge,  
Oxley Parker drive (mile end) etc  
Some customers don't pay as it's not their fault  
2.card declined on the other end n we don't get fare  
3.some customers pay cash only  
4.also I have concern about card service charges  
Also I will request to council to make mechanism for runners n the persons who sick in the taxi n don't pay fine, thanks.

24)As I've been using a card payment machine for a number of years now I welcome the proposal, however the system I'm using does not appear on your list of providers, my current provider is a company called square and I'm very happy with the service also large number of people/friends within the cabbng community also use these terminals, will we be forced/ required to change providers

25) And I already use cars machine in my taxi  
For customers I use SumUp thank you

26)Dear Licencing Team,  
Of course drivers should carry the means to accept card payments.  
It's a way of receiving money they go to work to earn. Why wouldn't you?  
I suppose some drivers believe they can fool the Tax Man if they receive cash only and don't declare it all.  
I hope those people get investigated and prosecuted if they have tried.  
It's all on computer for Private Hire, so all our income is documented, therefore we couldn't fool the Tax Man if we tried.  
Why should Hackney drivers be any different?  
Help the customers. Pay your taxes. Help the country.

27)As we do not run a taxi service and all our booking are pre booked we do not offer credit card or would we want to as we invoice out clients .....as they are mostly businesses

28)Dear Sir/Madam,  
Thank you for your email regarding card payment.  
I am a private hire driver working for Colchester Borough Council.  
I would like to inform you that I have been using Square Card Reader successfully for three years taking payment from my customer.  
Square Reader lets us accept chip and PIN cards, contactless cards, Apple Pay and Google Pay anywhere. Connect wirelessly, accept payments quickly.  
Square is quite popular among the mini cab drivers.  
Thank you.

29)Dear licensing

I have had many customers who complain about Taxis/PH not taking card payments

I know Panther & MCS are all supposed to accept cards, most do but some claim they don't or their reader isn't working, take the customer to an ATM and then charge extra for the diversion.

It is time all drivers accept cards. There are 2 reasons you wouldn't want to: Card charges & Tax evasion

Card charges: My Sum Up reader cost about £30 (one-off charge) and the transaction fees are 1.69% per transaction. If I take £500 on cards in a week it costs me £8.45 I look at as a necessary business expense

Card payments mean you are not carrying large amounts cash – safer for the driver  
They are traceable – safer for the driver, especially Hackneys who don't have any customer details

I think the main reason drivers don't want to accept cards is tax evasion

We are a City in 2022 and it is un-professional not to accept card payments, it is not a great look to tourists, business people visiting and our population

The drivers who object should have 2 choices – accept cards or leave the industry

Card payments should be accepted by all drivers as soon as possible. You can get a reader in days and accept payments immediately.

It is what the public wants and we should not delay this any longer, Colchester needs to come up to date and enforce this.

30) Good evening

Why square card reader isn't included on your list as it's one of the most reliable readers most of the taxi drivers using?

31) Hi thank you for your email yes I have a SumupCard reeder and I think everyone should keep both options for customers.

32) Hi

I've been using card readers and such like for over 10yrs and have no issues with this other than I'd like the card reader Square to be added to the list as I've tried many of the others and Square out performs them and has fewer issues.

33) Hi all,

Just spoke to Plate 432-. He said he needed to notify you if he was using a different card payment system than the ones listed. He said he uses the following:

- Square
- Sum up

He said if you require more information, he is happy to be contacted

34) Hi all,

called regarding his card payment machines.

He is already using 2 machines, one is again with Square, and the other is Sum Up.

He said the biggest issue with the card machines is when you reach an area with no signal, obviously card payment is not possible. He also has concerns regarding the pricing of some of the card machines that are on offer.

Obviously if you could follow up/ let him know the next steps regarding this, this would be appreciated.

35)Hi i would like to ask you if you can add Barclaycard payment method in the list please. Also I believe we should get some sort of surcharge for the card payment.

36)Hi there ,actually I use card payment from the first day when I started my job as a taxi driver,but there are some problem as some places have not conection or signal ,also some passengers they have not money in their account and that is abig problem for taxi driver.therefore we seek the council to make decision that any passenger have to pay before starting the journey by cash or [card.to](http://www.card.to)

[www.card.to](http://www.card.to)

The domain name 'www.card.to' is parked at Register.TO Domain Registrar.  
card.to

make everything is safe.

37)Hi I am happy to take card payment. I am actually taking payment last 4 years many

38)Hello

I agree with everything in the proposal

Please make it mandatory ASAP

It is expected that some drivers will be against, usualy the ones that want to overcharge the customers, and that they will try to cheat the sistem by declaring it broken every weekend, so please keep a eye for paterns

Also, I use : <https://lopay.com/> for Payments

Free card machine and low transaction Fee , and no contracts or admin fee

39)Hi Jon,

I think this is a great move, customers are always moaning that some drivers don't accept card payments.

In business we have to give customers what they want or someone else will.

I use Sum Up cost me £30 and works great for me, transaction charges are 1.8% I think about £10 per week.

40)Dear Sir

I am in agreement with the proposal that all vehicles should be able to accept card payments.

I run an Airport Transfer Business and do not do any local work. I take all my payments prior to travel either via Bank Transfer or card payments via a virtual terminal through Square Cards. I do have a hand held terminal (which I have never had to use).

I will not be willing to change my card provider from Square to one of your nominated companies as I have been with Square for nearly 6 years and have an excellent business

relationship with them. I did use Worldpay for a time previously when I was with another company. Their service and system was very poor and unreliable.

Please confirm that this email has been received and it will be acceptable for me to continue with my current arrangements.

41) Dear sir/madam ,

I am one of the private hire taxi driver in Colchester borough, and I am in this profession for last 5 year, it's true as the days coming we are heading towards cashless society . In most place we can use card payment for our everyday need, but in some profession and in some place we can't use and it's also difficult to pay by card or take payment by card . In my profession it's not time yet to go for compulsory card payment because our small card device we use it's connected with our mobile signal but in some places in the town also out of town there is no mobile signal or very poor signal where we can't take any payment. Sometime customer don't pay upfront or paying by there friends/ parents after journey where it's village and We don't know how the mobile signal will be also some customer don't pay by card . Although sometimes mobile signal is down in this case we can't work if we can't take payment . So it's completely wrong to make compulsory/ fitted card payment. I am fully against this ( compulsory card payment). I have fear if we go compulsory fitted card payment we might will loose lot of driver as it will be lot of problem not getting fare from customer because some customer will try to take advantage and end of journey will not pay fare( because of signal) etc. i am totally disagree with the council plan.

So please let the taxi driver work headache free in our Colchester borough council and make it easy for customer and driver .

42)Dear Sir/Madam

As I said on committee meeting on 28/09/2022, I personally support the idea but Colchester Borough Council should strike a balance between public demands and taxi driver's anxious about card payment.

Colchester Borough Council should engage with taxi drivers full. There is only one way to understand taxi driver's situation.

**Suggestion**

Any charges like refunds or transactions can be added to surcharge

My card payment is not listed which I was given by LLOYDS BANK Business account links with Government Bounce Back loan and 99.9% coverage network and compliance with Payment Card Industry Data Security Standard PCI DSS. All cardnet merchants are required to validate their compliance on a yearly basis.(Clover).

Please act quickly on this card machine. Thanks

43)Dear Jon Ruder

I do not agree with your compulsory card payment plans. I feel that it is always the case that all taxi drivers are painted with one brush. We are looked down upon and criminalised for behaviours of a few rogue drivers.

The vast majority of drivers are hardworking and brave who have to put up with hostility and abuse on a daily bases. It is unjustly always the case that the safety of customers

are given more importance over the lone taxi drivers, who are just as vulnerable. There should be equal safety concerns for both drivers and customers.

Majority of the drivers are Bangladeshi and from the ethnic minority group, who are subjected to further discrimination and abuse by customers as they seem to be an easier target.

I feel on many nights we risk our life trying to earn a living. During Covid we were front line workers but did not get much government support or acknowledgement for the essential service we provided.

We ask customers for cash payments in advance to stop passengers running off without paying. We offer to take them to ATM machines when they say they do not have cash. There is absolutely no reason for customers to complain. The majority of passengers we transport are drunk or drugged up or both. There are many passengers who have no intention of paying to get home, and it those who would most likely complain.

Cash-only payments can safeguard against “runners”. The cost of fuel have risen but the fares have remained unchanged. We cannot afford to lose out when customers do not want to pay at the end of a journey.

In addition you are expecting us to pay for a device which will be of no benefit to us. Making this mandatory instead of giving us the options to have card machine is just unjustified.

Taxi drivers are very poorly paid and I think it is unreasonable to expect them to have all the latest technology.

Furthermore, there are often network problems with card readers, which have difficulty connecting in areas of low signal. You are suggesting a fare may be agreed and paid in advance for the journey, and that this is permitted on condition that the meter is used. However, how is this possible for private hire taxis with no meters?

If the means of making electronic payments is not working, you are suggesting this must be reported immediately to the Council. Thus creating more anxiety and stress to do this extra work, as we would be required to carry a notebook to remember every incident.

Please take note all Bangladeshi taxi drivers have my same point of view regarding your proposal. Many struggle to put their say in writing due to language barriers. However, I have urged them to put something in writing where possible.

If you have a low response, it is only due to the fact they would need assistance in writing their say. I am prepared to get a petition of all the drivers who would be totally against this proposal.

I respectfully hope that you will take on board my views and consider scrapping this proposal.

I look forward to hearing from you soon.

44) I have had a card payments machine in my car for over 7 years. I have taken a hit of my earnings when government said you cannot charge. Since covid I have realised that more people do not carry cash. Me included when I go out. But we are not the only people licensed by the council. So my proposal is to make everyone that runs a business

like takeaways do the same. Since covid they used to take card then only cash. Did they suffer as much as private hire or Hackney the answer is NO. THEY WERE LOOKED AFTER. SO WHAT I AM SAYING IS LEAVE THIS INDUSTRY ALONE. If we accept card payment that's up to us not you. If you force something else upon the taxi services you could find a lot of drivers leave. We only want to do are job with the conditions that is already set out. If we are forced to take card payments then all takeaways must do the same as you license them as well.

45) Good afternoon,

Dear Licencing Team,

Thank you very much for your email.

I can only describe my situation accepting card payment. I take both cards or cash. I run a private hire vehicle operated by Panther Cabs. This company inserted my vehicle into their systems as I can take card payment and so automatically I received card payment jobs.

That's why, around more than 80% of the payment is achieved by card.

So, It is obvious that when a customer books a cab through my operator , the customer can pay by card as it is pre-defined. There is no requirement to stick the sign " Accepting card payment" on a Private Hire Vehicle.

But it is necessary for Hackney Carriage vehicles to stick the sign " Accepting card payment".

Comparison between cash and card payment methods which affect our daily basis transaction.

1. Cash is always better as it has straightforward uses when it is available to customers. Downside side is that cash money can be fake sometimes.

2. Card payment depends on mobile network signal and its strength. I use the 3G network. Recently I noticed that I lost my mobile signal in Crouch Street, Head Street and High Street up to McDonalds. I spoke to someone who is experiencing the same problem.

In that case, I need to request the customers to pay before starting their journey if they like to pay by card. In some cases customers get offended.

3. When customers pay the fare by card, we don't get the exact fare because there is a fee for every transaction. Moreover, fuel prices are soaring everyday. That's why my cordial request to customers through Council that customers may pay 50% of the transaction fee.

4. Cards can be dodgy.

During the end of the first lock down I drop one lady from Chevling road, Old Heath to Marks Tey. She uses three cards one after another. All the three cards failed . I did test my card machine and it was ok. I dropped the customer but I didn't get the fare. I was disappointed because it was a long distance journey.

My strong opinion is that the council should send the stickers to all cab drivers in colchester.

"PLEASE PAY YOUR AGREED FARE IN ADVANCE BEFORE START YOUR JOURNEY IN ORDER TO AVOID UNPLEASANT SITUATIONS."

It is not necessary to adhere to the stickers on Private Hire Vehicles as these vehicles are pre-defined by our operators. But it is essential for Hackney Carriage vehicles as they are operated by themselves.

Thank you,

46)Hi,

In response to the consultation on card machines I question how the licensing team can have an input on how self employed taxis drivers conduct their financial business.

The licensing team license food establishments , pubs , night clubs etc have you laid down the same recommendations to those trades?

I walked into a fast food outlet and it had a sign written in a black ink marker on an A4 piece of paper sellotaped to the front of the counter saying CASH ONLY.

The Government recently announced that although they do not plan to mandate cash acceptance, they respect that organisations choose the forms of payment they accept. So according to the Government we have a choice ,, or do we?

<https://petition.parliament.uk/petitions/622284>

I have been accepting card payments for about 5 years and I have clients that pay by BACS for the last 11 years, so it isn't an issue for me. The issue I have is why you think a customer complaining that some drivers refused card warrants a consultation when a driver overcharged 2 lads £70.00 odd paid on card , so you have proof of the allegation in black and white but it was swept under the carpet even though the parents made a complaint.

How many complaints do you have about drivers refusing card payments and can I see the proof ?

That driver has it in his blood to overcharge and rip people off and the council allow it , but won't allow drivers the choice of refusing card although the Government say we have the right to chose the forms of acceptable payments ourselves.

Will you be doing the same for the other business that you licence?

Starbucks in Colchester refuse to take cash payments , if I made a complaint to the council will you conduct a consultation?

The card terminal I have cost

£14.99 and the Visa signs came with it, so how have you come to £100?

Please show your costings to support this £100.

Recently PayPal took £2500 out of a clients account because they didn't like the clients views in a social media platform, they reimbursed the client but the intent is there. So I would never use PayPal but the Council support the use of PayPal who fine you for having a differing opinion.

I have a SumUp card reader and you can have money sent to your bank account or it can be kept in your SumUp account.

With your SumUp account you get a Mastercard.

I used mine yesterday and the card couldn't be read, so I ordered one ,,, it will take 6 -10 working days for a replacement to arrive.

Luckily I have another bank account , those that don't will not be able to fill their car up unless they borrow the money to do so.

There is a lot here so to recap I would like a response to these points.

How many complaints did you receive?

Can I see them?

Are you going to have a consultation regarding Starbucks refusing cash?

Do you support PayPal's policy of fining customers if they don't like their opinion on social media?

Are you going to carry on recommending PayPal as an option?

47) Dear Jon Ruder

Further to your email, I am writing to say that I do not agree with your proposal.

First of all you are asking us to pay for card machine in this crisis time where every household are struggling to pay for bills, food, and fuel. Technically we will lose part of our fare just to use a card payment.

Secondly, the signal problems for a card reader are common. Most of our town doesn't have proper signals everywhere. Sometimes at pick up points there's no signals then customer says they will pay at destination. While we try to get the card payment ready at destination customer will run we will lose our fare that's a major problem for us. Who is going to take responsibility for this. WILL COUNCIL TAKE THIS RESPONSIBILITY AND PAY FOR IT. While if we take cash we take upfront before journey and we don't lose our fare.

Thirdly, Cash-only payments can safeguard against "runners". The cost of fuel has risen but the fares have remained unchanged. We cannot afford to lose out when customers do not want to pay at the end of a journey.

Taxi drivers are very poorly paid and I think it is unreasonable to expect them to have all the latest technology and pay extra to use it and lose from fare.

You proposed penalty for card payment if we fail to comply with it. This is penalising self-employed driver who are working hard for a living.

I respectfully hope that you will take on board my views and consider scrapping this proposal and help us to overcome at this cost of living crisis time.

I look forward for your response

48) Dear Jon Ruder

I do not agree with your compulsory card payment plans. I feel that it is always the case that all taxi drivers are painted with one brush. We are looked down upon and criminalised for behaviours of a few rogue drivers.

The vast majority of drivers are hardworking and brave who have to put up with hostility and abuse on a daily basis. It is unjustly always the case that the safety of customers are given more importance over the lone taxi drivers, who are just as vulnerable. There should be equal safety concerns for both drivers and customers.

I feel on many nights we risk our life trying to earn a living. During Covid we were front line workers but did not get much government support or acknowledgement for the essential service we provided.

We ask customers for cash payments in advance to stop passengers running off without paying. We offer to take them to ATM machines when they say they do not have

cash. There is absolutely no reason for customers to complain. The majority of passengers we transport are drunk or drugged up or both. There are many passengers who have no intention of paying to get home, and it those who would most likely complain.

Cash-only payments can safeguard against “runners”. The cost of fuel have risen but the fares have remained unchanged. We cannot afford to lose out when customers do not want to pay at the end of a journey.

In addition you are expecting us to pay for a device which will be of no benefit to us. Making this mandatory instead of giving us the options to have card machine is just unjustified.

Taxi drivers are very poorly paid and I think it is unreasonable to expect them to have all the latest technology.

Furthermore, there are often network problems with card readers, which have difficulty connecting in areas of low signal. You are suggesting a fare may be agreed and paid in advance for the journey, and that this is permitted on condition that the meter is used. However, how is this possible for private hire taxis with no meters?

If the means of making electronic payments is not working, you are suggesting this must be reported immediately to the Council. Thus creating more anxiety and stress to do this extra work, as we would be required to carry a notebook to remember every incident.

Please take note all Bangladeshi taxi drivers have my same point of view regarding your proposal. Many struggle to put their say in writing due to language barriers. However, I have urged them to put something in writing where possible.

If you have a low response, it is only due to the fact they would need assistance in writing their say. I am prepared to get a petition of all the drivers who would be totally against this degrading proposal.

I respectfully hope that you will take on board my views and consider scrapping this proposal.

I look forward to hearing from you soon.

49) Good morning

I have recently had a telephone conversation with Cllr Dave Harris, who is Chairman of the Licensing Committee, who suggested I contact you with my objections to the proposal for all taxi drivers to accept card payments. I have also emailed Matthew Evans to register my request to 'Have my Say' at the meeting on Wednesday.

I have been a Colchester taxi driver (both private hire and hackney) for 44 years. I currently work from the High Street rank, mostly at night. Over the years I have met many nice people and even more not so nice.

When I am asked if I take card payments, I say 'no, sorry' and then help them find a driver who does. The majority of drivers, who work from the High Street rank do. My objections to being forced to accept card payments are as follows:-

1. The vast majority of the passengers we transport at night are drunk out of their brains, or drugged up, or both. A lot of them will try to get home without paying the driver. In the taxi trade we call them 'runners' and the numbers are increasing. No longer is there any respect for the driver, who is just trying to earn a living. My method of trying to prevent this happening is to ask for cash up front, especially for the longer journeys. I do not let them into my taxi until I have received the cash before I pull off the rank. I always tell them that if the fare on the meter is actually less than the fare I have asked, I will refund the difference. Due to the potential level of aggression once people have had too much to drink, etc. this has proved to prevent further problems, i.e. arguments about how much the fare is at the end of the journey, they don't have any cash, they have lost their cash, they don't have enough, etc. etc. Friday and Saturday nights are complete mayhem on the High Street and the safety of drivers should be paramount, myself more so as I have a head of white hair and am not a big man! Our vehicles are also a target for abuse/aggression from passengers and we often sustain vehicle damage too. Not to mention the terrible case of the taxi driver, who was beaten up and sustained brain damage in Ipswich a while ago (probably over an argument about the fare) May I remind everyone that it is a CRIMINAL offence not to pay a taxi driver. If we report it to the Police, they are not interested, as they have more important things to deal with.

2. I have spoken to many drivers, who do take card, and one of their biggest problems is that they cannot always get a signal on the card readers in various different areas (some in Colchester town itself). So passengers have learnt this and ask to be dropped off where there is no signal., thereby getting away without paying, as they don't have cash. I have also heard that sometimes after payments have been made by card, they are later rejected, either because there is not enough money in the passenger's bank account, or somehow the passenger has managed to prevent the payment.

3. If passengers get to know that all taxi drivers have got to take card payments, no-one will ever carry cash and more and more drivers will lose out on their fares, as above.

4. The cost of this proposal is also a problem for me, as I do not have a smart 'phone. It would not just be the cost of buying a card reader. I would also need to buy a smart 'phone, take out a new uprated monthly contract and pay a percentage of earnings to use the reader too. More importantly, my taxi reaches 12 years old in April and I will have to buy a new one, despite it still being in very good condition. In this time of a cost of living crisis none of the drivers need any additional costs and who knows what this winter and the expected recession will bring with the lack of passenger numbers.

5. Taxi drivers are very poorly paid and I think it is unreasonable to expect them all to have all the latest technology. We are not big companies, but one of the lowest paid individuals. We have expensive running costs and overheads (e.g. buying vehicles, insuring, taxing, licensing, MOT's, repairs, not to mention fuel, etc. etc.) There are still many small shops, which don't take card as it is not cost effective for them to do so. Taxi drivers should be allowed the choice - Cash is still legal tender and I consider it my right to be allowed to choose. Maybe those who make these decisions could take a trip into Colchester High Street on a Saturday night at around 3-4 a.m. and watch outside the former M&S shop at what us drivers are trying to deal with! We do not need any added regulations/technology to try us!

Finally, I would like to know exactly how many complaints have been made by the public out of the thousands of passengers we transport around each year.

50) Dear Jon Ruder,

I do not agree with your compulsory car payment plans. There are multiple reasons that have made me come to this decision.

One reason why I have come to this conclusion is because within Colchester and outside in some areas there is no signal. Which means card payments do not go through. The main areas where this is a recurring issue are Fingringhoe, Rowhedge, Longridge and other small villages.

Also, from my own experience I have many customers that do not like paying before their journey. As they find this "offensive". This leads to a icy journey as the customer is not happy with these rules.

Another reason is because many customers are drunk and under the influence of different drugs. Therefore when it comes to payments they find it difficult to make payments or remember passwords. So if the compulsory car payment is put into place, this will become a big issue. Adding to the payment issues, some customers I have noticed use dodgy cards to make payments. Which do not go through and it blocks up the card machine. I have to buy another card reader each time from my own funds. This would not be such a big issue if cash payments were available.

I believe that if a customers card or payment method is declined for whatever reason. You should take the responsibility to get the payment from the customer. Customers tend to be aggressive and abusive so I would prefer this to be dealt with as I feel unsafe.

If the means of electronic payments is not working you have advised reporting this to the Council immediately. This is a hassle and stress for drivers as we would need to log every incident down in a notebook.

As everyone is well aware of the fast rising fuel costs this has had a major impact on drivers. Many of drivers are contemplating leaving the taxi service and going onto new things. Especially because the fares have not increased enough compared to the amount needed for fuel. Plus getting a new car and maintaining the car itself comes with a lot of costs.

I hope you will consider my views and understand the reasons behind my opinion on this matter.

Many thanks,



22 March 2023

<b>Report of</b>	<b>Safety and Protection Manager</b>	<b>Author</b>	<b>Sarah White 506420</b>
<b>Title</b>	<b>Electronic Payment Devices in Licensed Vehicles//Policy Changes</b>		
<b>Wards affected</b>	Not applicable		

## 1. Executive Summary

- 1.1 This report sets out the proposed changes to the Council's Penalty Point Scheme in relation to the requirement that all licensed vehicles are to be equipped with the means to accept electronic payments in addition to cash. The report also details the proposed changes to Hackney Carriage and Private Hire Licensing Policy.

## 2. Recommended Decision

- 2.1 To recommend to full Council that the Hackney Carriage/Private Hire Policy be amended as set out in Paragraphs 6 and 7 of this report.

## 3. Reason for Recommended Decision

- 3.1 The Council has committed to keeping the Hackney Carriage and Private Hire Licensing Policy under review to ensure that it remains fit for purpose and is responsive to the changing licensing environment.
- 3.2 Electronic payments have become the norm for a large percentage of the population, and it is considered that the requirement to have facilities to accept such payments should be included within the Policy. Many drivers/operators already make provision for electronic payments but there is disparity across the trade which is causing problems for some customers and in the case of hackney carriage vehicles, compromises the principle that the taxi at the head of the rank, takes the next fare. The refusal of fares by the driver at the head of the rank because they are unable to take electronic payments is another source of complaint to the Council.

## 4. Alternative Options

- 4.1 To leave the Hackney Carriage and Private Hire Licensing Policy unaltered.

**5. Background Information**

- 5.1 At its meeting on 18 January 2023 the Sub-Committee considered the responses of the trade to the consultation on the proposal to require licensed vehicles to be equipped with the means to accept electronic payments in addition to cash.
- 5.2 The Committee resolved to recommend to full Council that the Council's Hackney Carriage and Private Hire Licensing Policy be amended to require licensed vehicles to be fitted with the means to accept electronic payments in addition to cash.
- 5.3 The Committee requested officers look again at the level of penalty points to be applied for failing to have the means to accept electronic payments.

**6. Changes to the Penalty Point Scheme**

- 6.1 The penalty point scheme has been reviewed and it is suggested that the points for contravention of the requirement to have and operate an electronic payment device be reduced from the originally proposed 4 to 3 points. This change will bring the points into line with those given for first offences for a variety of other matters.

<b>113</b>	Failure to comply with the requirements relating to the provision and/or operation of an electronic payment device		x	x	x
	1 <sup>st</sup> offence	3			
	2 <sup>nd</sup> offence	6			
	3 <sup>rd</sup> offence	9			
	4 <sup>th</sup> offence	12			

**7. Proposed amendments to the Policy**

- 7.1 Set out below are the proposed changes to the Hackney Carriage and Private Hire Licensing Policy.

**7.2 Annex 2 – Hackney Carriage Vehicles Licensing Standards and Conditions**

Pre-Licensing Standards and Conditions

15. Electronic Payment Device

15.1 The vehicle must be equipped with an electronic payment device.

Conditions of Licence

21. Electronic Payment Device

21.1 Vehicles must be equipped with the means to accept electronic payments in addition to cash. The vehicle must have a Colchester City Council approved electronic payment device (see 21.2 below) which can accept an electronic payment.

## 21.2 Approved Electronic Payment methods

BarclayElectronic payment/App  
Cab:app Ltd (Miura M010)  
Cabvision Network Ltd (Ingenico)  
Elavon  
Farepay Ltd (Miura M010)  
Ingenico  
iZettle (Miura M010)  
LoPay  
Payataxi (Miura M010)  
PayPal (Miura M010)  
SquareApp  
SumUp (Miura M010)  
Viva Wallet  
Worldpay

Further electronic payment methods/Apps may be used upon application to, and approval by, the Council.

21.3 The Council considers the electronic payment facility to be part of the vehicle and as such it must be working at all times.

21.4 The vehicle must display the Colchester City Council approved stickers on both the rear passenger window and inside the vehicles indicating that debit and credit card payments are now taken.

21.5 If the means of making electronic payments is not working this must be reported immediately to the Council. The Council must be notified when any problems have been resolved and the payment facility is again operational.

21.6 If there is concern that the electronic payment facility may not work at the destination point, a fare may be agreed and paid in advance for the journey. This is permitted on condition that the meter is used, and if the metered charge is less than the agreed payment for the journey, the overpayment is refunded.

## 7.3 Annex 3 – Private Hire Vehicles Licensing Standards and Conditions

### Pre-Licensing Standards and Conditions

#### 15. Electronic Payment Device

15.1 The vehicle must be equipped with an electronic payment device.

### Conditions of Licence

#### 21. Electronic Payment Device

21.1 Vehicles must be equipped with the means to accept electronic payments in addition to cash. The vehicle must have a Colchester City Council approved electronic payment terminal (see 21.2 below) which can accept an electronic payment.

## 21.2 Approved Electronic Payment methods

BarclayElectronic payment/App  
Cab:app Ltd (Miura M010)  
Cabvision Network Ltd (Ingenico)  
Elavon  
Farepay Ltd (Miura M010)  
Ingenico  
iZettle (Miura M010)  
LoPay  
Payataxi (Miura M010)  
PayPal (Miura M010)  
SquareApp  
SumUp (Miura M010)  
Viva Wallet  
Worldpay

Further Electronic payment methods/Apps may be used upon application to, and approval by, the Council.

21.3 The Council considers the electronic payment facility to be part of the vehicle and as such it must be working at all times.

21.4 The vehicle must display the Colchester City Council approved stickers on both the rear passenger window and inside the vehicles indicating that debit and credit card payments are now taken.

21.5 If the means of making electronic payments is not working this must be reported immediately to the Council. The Council must be notified when any problems have been resolved and the payment facility is again operational.

21.6 If there is concern that the electronic payment facility may not work at the destination point, a request can be made to pay in advance for the journey.

## 8. Standard References

8.1 There are no particular references to the strategic plan; consultation; community safety; health and safety or risk management, financial, equality diversity and human rights or publicity implications from the changes set out in this report.



# Licensing Committee

Item

8

22 March 2023

<b>Report of</b>	<b>Safety and Protection Manager</b>	<b>Author</b>	<b>Sarah White</b>
<b>Title</b>	<b>Approval of the NR3 Policy</b>		<b>☎ 506420</b>
<b>Wards affected</b>	<b>All</b>		

## 1. Executive Summary

- 1.1 This report sets out the responses to the consultation on the Council's proposed Policy on the use of the National Register of Taxi Licence Revocations and Refusals (NR3) which if approved will form an appendix to the Council's Hackney Carriage and Private Hire Licensing Policy.

## 2. Recommended Decision

- 2.1 To recommend to full Council that the NR3 Policy be adopted for inclusion in the Hackney Carriage/Private Hire Licensing Policy.

## 3. Reason for Recommended Decision

- 3.1 The use of the NR3 will become a statutory requirement from April 2023 when the remaining duties under the Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 come into force. The proposed Policy will set out how the Council will discharge its functions under the Act.

## 4. Alternative Options

- 4.1 There are no alternative options.

## **5. Background Information**

- 5.1 On 18 January 2023 the Committee approved the draft NR3 Policy (Appendix 2) for the purposes of a six week consultation with the trade.
- 5.2 The National Register of Taxi Licence Revocations and Refusals (NR3) provides licensing authorities with the facility to share details of individuals who have had a hackney carriage or private hire licence revoked, or an application for one refused. The NR3 does not extend to vehicle or operator licensing decisions.

## **6. Detailed Considerations**

- 6.1 Relatively few responses have been received to the consultation but of those received the majority support the proposals. The responses to the consultation are shown at Appendix 1.
- 6.2 The use of the NR3 register is included within the provisions of the Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 which received Royal Assent on 31 March 2022. Some of the duties came into force on 31 May 2022 and the remaining duties will be coming into force in April 2023.
- 6.3 The Act places duties on licensing authorities to improve information-sharing regarding taxi and private hire vehicle drivers for the purpose of safeguarding passengers, and road safety.
- 6.4 The effect for the Council of the Act coming into force will be to place a statutory obligation on the Council to use the NR3 database both to record information and to check applicants against information recorded by other Councils.

## **7. Equality, Diversity and Human Rights Implications**

- 7.1 There are no adverse implications in implementing the Policy; there are positive outcomes in protecting all groups.

## **8. Community Safety**

- 8.1 The Council expects all applicants to demonstrate that they are safe drivers with good driving records and adequate experience, sober, mentally, and physically fit, honest, and not persons who would take advantage of their employment to abuse or assault passengers. The adoption of the use of the NR3 is in line with the Department of Transport's Guidance, providing advice on the checking of suitability of individuals and operators to be licenced, which will safeguard children and vulnerable adults, and by extension the wider public.

## **9. Financial Implications**

- 9.1 The Council is already a member of the Anti-Fraud Network. The Department of Transport is covering the cost of access to the NR3 and all licensing authorities will be given access to the NR3 for free.

## **10. Risk Management**

- 10.1 The Council may licence someone whose licence has been refused or revoked by another Council, the adoption of the Policy will help to reduce this risk.

## **11. Standard References**

- 11.1 There are no references to the strategic plan; publicity consideration; health and safety; or environmental or sustainability implications.

## Consultation Responses

Thanks for your consultation email on a proposed national register of taxi licence refusals and revocations. I am wholeheartedly in favour of such a register, which has been long overdue. Anything to keep up the standards of drivers is welcome.

It seems more than reasonable to introduce a scheme such as NR3 and will be welcomed by anyone with nothing to hide. It will also serve to help protect the public from the small minority who bring disrepute on the taxi industry.

Am not happy with this policy. No

I think passport details should also added to stop people changing there ID .

as you ask for any Suggestions.

My Suggestion is every council should able to transfer and renew Hackney and private hire taxi licences without any issues.

For example: if one taxi driver from Colchester move to Manchester or Luton they should be allowed to exchange taxi licences from that authority without giving any more Tests without any hurdles. Makes life easy for Taxi drivers so they can moved to different cities with more comfort

This is great news! I fully support the NR3 policy. Well done !! Please implement as soon as possible

Really need to start getting a grip with the fake taxi drivers that are putting there services on social media

# NR3 Policy

This Policy sets out how the Council will use the National Register of Taxi Licence Revocations and Refusals (NR3). The register provides licensing authorities with the facility to share details of individuals who have had a hackney carriage or private hire licence revoked, or an application for one refused. The NR3 does not extend to vehicle or operator licensing decisions.

## 1. Introduction

1.1 The key consideration of the Council in carrying out its functions in relation to the licensing of hackney carriage and private hire drivers is the safety of the travelling public.

1.2 The Council must not grant a driver's licence unless it is satisfied that the applicant is a fit and proper person to hold a licence. The Council is also entitled to suspend or revoke a licence if there is evidence to suggest that the individual is not a fit and proper person to hold a licence. The fit and proper test is an enduring duty placed on the Council which is relevant both at first licensing and for the lifetime of the licence.

## 2. General

2.1 In this Policy, the 'first authority' refers to a licensing authority which has made a specific entry onto the NR3. The 'second authority' refers to a licensing authority which is seeking more detailed information about the entry.

2.2 The term licence is used to refer to a hackney carriage drivers' licence, a private hire drivers' licence, and a combined dual licence. Any reference to a 'new' licence should also be read to include the 'renewal' of a licence.

## 3. Overarching principles

3.1 The Council will access and use information contained in the NR3 in accordance with this Policy. The NR3 contains information relating to the refusal to grant, or revocation of a licence. This information is important in the context of any subsequent application to another authority for a licence by a person who has previously had their licence refused or revoked.

3.2 The Council has registered to use and enter information onto the NR3. This means that when an application for a licence is refused or an existing licence is revoked, that information will be placed on the NR3.

3.3 Access to the NR3 is only provided where a licensing authority is a current member of the National Anti-Fraud Network and has signed data processor and data sharing agreements.

# NR3 Policy

3.4 When an application for a new drivers' licence or renewal of an existing drivers' licence is received, the Council will search the NR3. The search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with this Policy. If details are found that appear to relate to the applicant, a request will be made for further details from the first authority that entered that information. The applicant will then be notified.

3.5 Any information that is received from another authority in respect of an application for a licence will only be used in relation to the applications and its determination and will not be used for any other purpose. Any information received relating to the applicant will only be kept for as long as is necessary to determine the outcome of their application. The period it takes to determine any application is variable and often depends on the applicant's circumstances and timely responses to further questions. Once an application is determined there may be a further period where it is necessary to retain information for purposes of notifying the applicant of the outcome their application, and for any period to accommodate an appeal against the Council's determination should the applicant so choose.

3.6 The data will be held securely in accordance with the Council's general policy on the secure retention of personal data which is available on the Council's website.

## 4. Requesting further information relating to an entry on the NR3

4.1 When an application is made for the grant of a new, or renewal of a licence the Council will check the NR3.

4.2 The Council will make and then retain a clear written record of every search that is made of the NR3. This will detail:

- the date of search
- the name or names searched
- the reason for the search – new application or renewal
- the results of the search
- the use made of the results of the search – (this may be entered to the NR3 at a later date once the application and appeal process has been fully concluded)

Search records will not be combined with other records and will be retained for a period of 25 years.

4.3 If the Council's search of the NR3 reveals a potential match, a request for further information will then be made to the first authority that made the entry. The request will be made in writing in accordance with the standard form (see Appendix 1). The form requesting further information used by the Council will be posted or emailed to the contact address of the first authority that made the NR3

# NR3 Policy

entry. The application process will thereafter pause until a suitable response to that request has been received by the Council.

## 5. Responding to a request for further information relating to an entry on the NR3

5.1 If the Council receives a request as first authority for further information from a second authority a clear written record of the request will be made. A record of the Council's response arising out of the request from the second authority will be retained for a period of 25 years.

5.2 The Council will then determine how to respond to the request. The Council will not simply provide information as a blanket response to every request.

5.4 Any disclosure must be considered and proportionate, taking into account the data subject's rights together with the role and responsibilities of a licensed driver. Whilst data is held on the NR3 for a period of 25 years, the Council (the first authority) will not disclose information relating to every entry. Each application will be considered on its own merits.

5.5 Where the reason for refusal to grant or revoke a licence relates to a conviction, or caution, consideration will be further given to the full circumstances of the case prior to disclosure. Any information about convictions and cautions will be shared in accordance with this Policy by virtue of Part 2 of Schedule 1, Data Protection Act 2018 (DPA 2018). In so far, processing of data is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law.

5.6 In fulfilment of a request for further information from a second authority, the relevant officer will record what action was taken and why. The Council will make and then retain a clear written record of every decision that is made as a result of a request from another authority. This will detail:

- the date the request was received
- how the data protection impact assessment was conducted and its conclusions
- the name or names searched
- whether any information was provided
- if information was provided, why it was provided, and details of any further advice obtained before the decision was made to make disclosure
- if information was not provided, why it was not provided, and details of any further advice obtained before the decision was made
- how and when the decision and any information was communicated to the requesting authority

# NR3 Policy

This record will not be combined with any other records and will be retained for a period of 25 years.

## 6. Using information obtained arising out of a request to a first authority

6.1 If the Council receives information arising out of a request that has been made to a first authority, it will take it into account (together with other information obtained as detailed in this Policy) when determining an application for the grant or renewal of a drivers' licence.

6.2 The Council will make and then retain a clear written record of the use that is made of the results of its request and the subsequent determination of the application for a licence (this information may be added to the NR3)

6.3 Information that is received may warrant significant weight being attached to it, but it will not be the sole determinant for any decision that the Council makes in relation to the application for which it was obtained.

## 7. New and Historical Data

7.1 The Council will upload new and historical revocation and refusal data to the NR3, and which will be limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective

7.2 The Council will begin using the NR3 from \_\_\_\_\_. This means from that point:

- applications for new hackney carriage/PHV licences and for renewals will be checked on the NR3
- where an existing licence is revoked, or an application for renewal or a new licence is refused, this will be recorded on NR3

January 2023

# NR3 Policy

Appendix 1

## Information Disclosure Form

This form is submitted following a search of the National Register of Refusals and Revocations (NR3).

Colchester City Council: .....

Requestor authority reference number: .....

Name of licensing authority from which information is sought: .....

Name of individual in respect of whom the request is made: .....

Decision in respect of which the request is made: Refusal / revocation

Other details for this record: .....

Address: .....

Driving licence number: .....

NI number: .....

Reference number: .....

### Declaration by requesting authority:

The authority hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of taxi / PHV driver licences are fit and proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest. This request is being made under Schedule 2, Part 2 (7) of the Data Protection Act 2018.

The information provided below will only be processed, used and saved by the authority in connection with this particular application and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and PHV driver licences, and will be retained in accordance with the Authority's retention policy relating to the provision of such information.

To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request can be accessed on the Council's website.

# NR3 Policy

Signed: .....

Name: .....

Position: .....

Date: ..... (For completion by providing authority)

Further information to support the decision recorded on NR3 in respect of the above named individual:

## **Declaration by providing authority:**

The authority hereby confirms that it has conducted a data protection impact assessment.

It also confirms that the information above is accurate and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals and Revocations was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above named authority accordingly.

The authority also confirms that, as part of the basis for securing, retaining or applying for a taxi / PHV driver licence, the above named individual has been made aware of to the fact that this information will be shared, in accordance with all relevant data and privacy requirements.

Signed: .....

Name: .....

Position: .....

Date: ....