

# Governance and Audit Committee

Tuesday, 28 November 2023

**Attendees:** Councillor Dave Harris, Councillor Alison Jay, Councillor Chris Pearson, Councillor William Sunnucks  
**Also Attending:** Councillor Mark Cory, Councillor David King  
**Apologies:** Councillor Paul Dundas, Councillor Sara Naylor, Councillor Paul Smith  
**Substitutes:** Councillor Carl Powling (for Councillor Paul Dundas), Councillor Dennis Willetts (for Councillor Sara Naylor)

## 389a Draft Governance and Audit minutes - 17 October 2023

*RESOLVED* that: the minutes of the meeting on 17 October 2023 be confirmed as a correct record.

## 390 Review of Polling Districts and Polling Places

The Committee considered a report requesting that it recommended to Full Council a revised schedule of polling districts and polling places within the City of Colchester area.

The Committee were advised that the Chair of the Committee had decided to deal with item 9 on the agenda at the start of the meeting due to time pressures on the Officers involved in these items.

Andrew Weavers, Head of Governance and Monitoring Officer attended the meeting to present the report and assist the Committee with its enquiries. The Committee heard that each Local Authority was required to undertake periodic reviews of its polling districts and polling places districts for parliamentary elections, and that these reviews took place every 5 years. Accordingly, the Council should be commencing a review at the present time, however, an electoral review by the Local Government Boundary Commission was currently in its early stages for Colchester, and the Commission had advised that it was not appropriate to undertake a full review of polling districts and polling places at this time. A full review of polling districts and polling places would be conducted in 2026. The Council had, however, taken the opportunity to undertake a public consultation in respect of polling districts and polling places, and as a result of this some changes were proposed to a number of polling places to ensure that each polling place was suitable and as accessible as possible for voters. The proposed changes which had been consulted on were listed in the Officer's report, and the Committee was requested to commend these to Full Council.

Councillor Sam Mclean attended the meeting and addressed the Committee in accordance with the Council's Have Your Say! procedures. He considered that democracy was priceless and any disruption to day-to-day life in the interests of democracy was worth it. Where disruption could be avoided, however, then it should be, particularly in relation not the use of schools as polling stations. It was considered that a school should not be used as a polling station when other suitable venues were available nearby. Hamilton Primary School was situated in his ward, and the Head

Teacher, pupils and parents of pupils at the school did not want it to be used as a polling station, and its' proposed replacement as a polling station was fully supported by Councillor Mclean.

A Committee member supported the comments of Councillor Mclean in respect of the use of schools as polling stations, and was pleased to note that a polling station in his ward had been moved from a school to a local croquet club. The contents of the Officer's report were welcomed.

A Committee member considered that the reference in the Officer's report to Willows & Monkwick and Barnhall Polling Districts was a typographical error, and requested clarification on this point. Although he considered it sensible for Rainsborowe Road and Shrub End constituents to vote at the C3 Centre, he did not support the proposal to move AA Berechurch voters to this location. The Officer's report stated that the C3 Centre had adequate parking but he disputed this, pointing out that the Abbey Field Medical Centre shared this car park, and was very busy during the daytime. The proposed move would now require AA Berechurch voters to cross the busy Berechurch Road to vote at the C3 Centre as opposed to their previous polling station at Plum Hall, which would make it much more difficult for them to vote in person. He had been approached by a number of his constituents who had indicated that they did not wish to use a postal vote, but due to mobility issues would find it very difficult to vote at the new location of the C3 Centre. He noted that Plum Hall was owned by Colchester Borough Homes, and queried the wisdom of incurring the expense of moving to another polling station when voters were happy with the current arrangements, particularly those who would struggle to cross the busy main road to vote. Although supportive of the other proposals in the Officer's report, he could not support this particular change, and would be voting against the suggestions for this reason. Commenting on another polling station, St Margaret's Church Hall Stansted Road, it was suggested that this building needed to have disabled access at the front, and requested that consideration be given to installing a ramp to address this issue as this was an old building with limited access.

The Chair of the Committee did share some of the concerns which had been raised, but considered that, on balance, there were advantages to moving the polling station away from Plum Hall. Parking was limited at this venue as well, and he had concerns about the safety of residents there with strangers appearing throughout the day to vote. A member of his political group had requested that the proposed move of a polling station in Greenstead to the Hythe Community Centre be reconsidered, as it was thought that this move would lower voter turnout. Could a portacabin situated in the carpark of a local supermarket be used instead?

In response to the questions from the Committee James Bennett, Electoral Services Team Leader, confirmed that the reference to Barnhall alongside Monkwick in the Officer's report was a mistake, and the entry should simply read 'Willows & Monkwick'. With regard to the suggestion that a ramp be installed at St Margaret's Church Hall, it was unlikely that the Council would be able to fund the installation of a permanent ramp, however, the possibility of obtaining a temporary ramp to assist on polling day would be investigated. The Committee heard that it was recognised that the proposed change of polling station from Plum Hall to the C3 Centre had advantages and disadvantages. One of the principal concerns about the continued use of Plum Hall

was the poor access to the polling station, which was through a residential corridor onto which peoples' front doors opened, to a communal area on the residential site. Although the problems with parking and crossing the road to the C3 Centre were recognised, it was considered that on balance the use of the C3 Centre was the more preferable option. The suggestion that a portacabin be used as a polling station in Greenstead had been considered, but this was not thought to be suitable from a safety point of view, or as a suitable venue to run an effective polling station from. The use of such a polling station would only be considered in an emergency, and not for routine use.

RECOMMENDED TO COUNCIL that:

- The revised schedule of polling places set out in Appendix A, and the explanation of changes contained at Appendix B of the Officer's report be approved.

RESOLVED that:

- The Returning Officer be granted delegated authority to approve an alternative polling place if any polling place becomes unavailable or found to be unsuitable in the run up to an election.

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### **Colchester Commercial Holdings Limited Annual Report**

The Committee considered a report presenting to it Colchester Commercial (Holdings) Limited (CCHL)'s Annual Report.

Richard Carr, Interim Managing Director- Amphora, attended the meeting to introduce the report and assist the Committee with its enquiries. The report which was before the Committee sought to go beyond the specific requirement for CCHL to share its Annual Report with the Committee, although this Report was contained at Appendix 1 to the report. Audited accounts for the period 2022/2023 were also appended to the report, and the report also sought to provide a picture of the current financial position of CCHL in the first 6 months of the financial year. The Committee was reminded, however, that as part of the strategy for the Amphora companies which had been approved by Cabinet in the previous week, the appraisal of options for Colchester Fibre was an important piece of work which had yet to be completed, and which could have an impact on income figures. A 1 year budget had also been proposed for the forthcoming financial year, and it was explained to the Committee that the reason for this as opposed to a full business plan was linked to the need to carry out a fundamental review of the options for Colchester Fibre.

The Committee was advised that the approach which was being taken towards income in the forthcoming financial year was cautious, to ensure that figures were realistic and not the subject of conjecture. The opportunity had been taken to rebase the proposed management fee, which was the fee paid by the Council to Amphora, to ensure that it was based on cost recovery in a way which was open and transparent to all. Adjustments were also proposed to the way that Amphora collected an overhead charge from the Council.

A Committee member voiced his support for the decisions which had been made in respect of Colchester Amphora Energy Limited (CAEL), but had the Council

understood all the implications of placing this company into hibernation? The decision to carry out this action had been made at the meeting of Cabinet the preceding week, and it was considered that there could be some big impacts on the General Fund. It was noted that £1.7m had been lent to CAEL, and although there had been hopes that the company would be successful, consideration now needed to be given to the potential recovery of this money, possibly through the sales of assets which were on CAEL's balance sheet. It was noted that a grant had been received, would this need to be repaid once the company had been made dormant? It was pointed out that the biggest assets were sitting on the Council's balance sheet and it was essential to consider the financial implications of decisions which were taken in relation to the Amphora companies.

The Chair of the Committee noted that detailed information had been provided in response to a number of questions which had been asked of the Deputy S151 Officer prior to the meeting, and these questions and answers would be shared with the whole Committee after the meeting.

Andrew Small, S151 Officer, advised the Committee that the hibernation of CAEL was an unusual activity, and concerned assets which were difficult to value. Technical advice was being sought to allow the proper accounting entries to be made. In terms of the grant which had been received, the current position was that the repayment of this grant was not being sought, but it was recognised that this did represent a risk. It was hoped that it would be possible to retain the grant and the work which had been carried out could be offset against this to maintain a neutral cash position.

The Committee considered that it had been forensic in its analysis of CCHL and had ensured that reports had been regularly presented to it for oversight and review. An oversight group had also been established, with the Interim Managing Director of CCHL steering this. There had been a recognition that additional work was needed on the Amphora Group companies and CCHL, and the responsibility for this oversight had been undertaken by the Committee, with the support of the Leader of the Council and the Chief Executive. There had been a recognition that decisions had needed to be taken quickly to reduce the risk posed to the Council as quickly as possible. The Committee would maintain its level of oversight as events progressed. The level of improvement in reporting to the Committee over the previous year was appreciated, with accounts now being provided to the Committee for analysis. It was requested that an additional report be presented to the Committee once the impact on the General Fund had been determined, as the Council had limited reserves to draw upon.

The Committee enquired how quickly the company which had been placed into hibernation could be re-activated to take advantage of any advantageous changes in the market, and the Interim Managing Director confirmed that taking the company itself out of hibernation could be achieved very quickly. The slowest part of the process would be decision making which preceded such a re-activation.

A Committee member asked why a hefty management fee was paid to the Amphora companies, which then paid a dividend back to the Council. Why not pay a smaller management fee, and receive no dividend? The Interim Managing Director of Amphora believed that this was a fundamental issue. He believed that when the Council's wholly owned companies were originally set up, the intention had been to

sell on expertise which was contained within the companies to other parties, but in practice this had not happened due to capacity issues. In terms of future arrangements, the intention was to apply the principle that where Amphora was involved in activities exclusively delivered back to the Council, there was some merit in thinking about the arrangement which generating a dividend because this would constitute income which would not otherwise have been available.

A member of the Committee indicated that he had a large number of questions for the Officers, and at the Chair's suggestion agreed to email these to Officers and the Committee after the meeting.

In discussion, the Committee noted that the average pay of Amphora employees appeared to be low based on the figures contained in the Officer's report, what was the reason for this? The Interim Managing Director – Amphora, considered that pay levels reflected the varied nature of services which CCHL had historically delivered. With some services, the intention had been to recruit very highly qualified individuals, whereas other services were more dependent on casual workers, for example within the Events function. The overall salary levels were impacted by more casual staff working within the CCTV and Helpline functions. It was clarified to the Committee that across Helpline and CCTV there were 36 employees and others in the Event Business were paid on an hourly rate when they worked.

In response to a question from the Committee, Pam Donnelly, Chief Executive, confirmed that the Council had recruited a member of staff to provide interim support who had specialist expertise, and who had the responsibility of bringing in staff from Amphora and Colchester Borough Homes into the Council's new, more centralised model, in accordance with the Chartered Institute of Public Finance and Accountancy (CIPFA) report which had been provided earlier in the year. This would grant the Council control of its assets and the ability to make decisions about future investment, and the disposal of, or alternative use of, these assets. Updates would be provided to the Committee as this work progressed through the year. The Committee noted that a lot of work had been undertaken in respect of CCHL over the preceding 12 months, and this work was ongoing. The control and oversight of the Council's assets would sit within the Council itself under leadership and management arrangements which were currently being determined.

RESOLVED that:

- The Colchester Commercial (Holdings) Limited Annual Report 2022-23 be noted.
- The Colchester Commercial (Holdings) Limited Group Final Accounts for 2022-23 be noted.
- The half year financial position of Colchester Commercial (Holdings) Limited and its subsidiary companies be noted.
- The Amphora budget proposals for 2024-25, submitted on behalf of the Colchester Commercial (Holdings) Limited Board be noted.

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### **Quarter 2 Budget Monitoring Report**

The Committee considered a report setting out the 2023/24 General Fund and Housing Revenue Account positions, for both revenue and capital, as of 30 September 2023.

Chris Hartgrove, Deputy S151 Officer, attended the meeting to introduce the report and assist the Committee with its enquiries. The report before the Committee set out the financial position for Quarter 2 of the financial year 2023/2024, based on information available as at 30 September 2023, and covered the position for both the General Fund (GF) and the Housing Revenue Account (HRA). In common with other local authorities, the City Council was facing a number of financial challenges, and a GF net revenue overspend of £1.447m was forecast. The Quarter 2 forecast overspend reflected a projected overspend of £3.266m on Service Budgets, however, this was offset by a projected underspend of £1.81m on Capital Financing costs. Following the recent pay award negotiations which had been undertaken, if a pay award was settled in accordance with the offer which had been made, this would add a further £600,000 to the GF revenue budget pressure.

A range of challenges had been identified within Corporate Services, with a forecast overspend of £1.123M which was attributable to a number of factors including a shortfall in Amphora dividends of £289,000. The biggest single spending pressure related to the Council's homelessness service which had experienced a surge in demand which was driving a projected overspend of £860,000. There was also a projected shortfall of £551,000 in relation to garden waste income which was due to technical accounting requirements which required income received late in 2023/2024 to be spread over more than 1 financial year.

The GF funding position for 2023/2024 was summarised in the Officer's report, and the Committee was asked to note that the Council had received £204,000 in Revenue Support Grant, which had not been assumed in the original budget. Itemised forecasts for all reserves were now included in the information which was before the Committee, and the £3.943m use of reserves was also reconciled. Opening and closing balances were, however, withheld at this stage, pending the finalisation of the statement of accounts for 2022/2023. The HRA budget was projected to be on course to protect the HRA balance of approximately £4.6m, as illustrated in the Officer's report.

Capital spending continued to be subdued, with an underspend of £33.52m forecast, and Officers from the Council and Colchester Borough Homes were carrying out an in-depth review of the HRA Capital Programme, and a full update on this position would be included in the Quarter 3 update report which would be presented to the Committee.

The Committee praised the clarity of the information which was presented in the Officer's report, and considered that the Council's financial position was accordingly set out in a manner which made it easier to comprehend.

A Committee member considered that it was of critical importance that the Council's deficit spending was understood in detail, and in particular how long the Council could continue to operate in this way before it ran out of reserves. It was noted that the Council was deficit spending at £3.943m in the current financial year, and an additional £600,000 would be added to this figure as a result of the agreed pay award. It was essential that the amount of Council reserves which were to be used to support deficit spending were identified over the coming months.

Andrew Small, S151 Officer, attended the meeting and advised the Committee that the objective was to bring forward a balanced budget which did not necessarily rely on the use of reserves, unless this was appropriate. The fact that there was an overspend in the current financial year did not necessarily mean that reserves would continue to be used at this rate in future years.

Councillor Cory, Portfolio Holder for Resources, attended the meeting and addressed the Committee. He assured the Committee that the Council's current use of reserves was not normal, and it was not intended that this be continued in the future. The Council had faced a number of one-off financial pressures in the current financial year, such as the garden waste revenue being accounted for in the budget for the forthcoming financial year. The Council also faced medium term, longer term and recurring pressures, and the requirement to spend more would be reflected in forthcoming budgets allowing these pressures to be addressed. A programme of transformation was underway which would focus on making savings where possible, and streamlining the activities of the Council. In the past the Council had been prudent with its reserves, and this enabled their use at the current time.

In discussion around the forthcoming budget proposal, an opposition Committee member raised his concerns that it would not be possible to propose a feasible alternative budget as access to Council Officers was being denied to the opposition.

Councillor King, Leader of the Council, attended the meeting and at the invitation of the Chair, addressed the Committee. Fundamental decision making was underway to reduce the costs of the Council, and every Councillor would have the opportunity to attend a briefing with the Chief Executive and Senior Management of the Council in the near future at which current information on this process would be shared. The work which had been carried out was concerned with understanding the wide variety of tests and challenges faced by the Council, determining the costs associated with the provision of some services and then reaching decisions about how to deliver those services in the future. It was intended that all Councillors would be given the opportunity to participate in this process and provide input into what it was considered that the Council's priorities should be.

Pam Donnelly, Chief Executive, attended the meeting and addressed the Committee. She was concerned to note that access to Council Officers had been denied to opposition Councillors, but did consider that there had to be some restrictions on access to staff which was provided to opposition Councillors due to the political nature of the organisation. If sufficient access had not been provided then this would be addressed following the meeting. She assured the Committee that the Senior Leadership Team of the Council was committed to addressing the medium term financial position of the Council, which was deteriorating. Time was needed to fully document the Council's plan for dealing with the financial issues which were faced, and the operating costs of the organisation would be reduced by 25% over the medium term. This would require fundamental reform of the activities of the Council and how these were carried out, to ensure that the Council was able to operate within its budget, and continuing to offer a community leadership role in the future.

A Committee member spoke about the practicalities of the presentation of an

alternative budget proposal by opposition Councillors. In the past an alternative budget had been prepared, but Council procedures during Full Council meetings prevented the presentation of this budget, as time during the meeting was limited. It was suggested to the Committee that the Conservative Group had been provided with insufficient support, insufficient time and a procedural system which did not allow the effective presentation of an alternative budget.

It was suggested by a Committee member that an overspend of £1.447m was not catastrophic, and that the Council would always face challenges. Cuts were made to the budget every year, however, there was a limit to the extent to which it was possible to reduce the number of staff and the improvements which could be made to the efficiency of the Councils activities. It was necessary to focus on conducting the Councils mandatory activities superbly well to generate the necessary financial leeway to carry out some more discretionary activities.

The S151 Officer considered that local government as a whole had performed very well over the last decade, given the level of challenge which had been presented to it by reductions in grant funding from central government. He considered that it was important to consider both the statutory functions and non-statutory functions of the Council together to ensure that the greatest efficiency possible was achieved.

The Committee discussed the extent to which opposition Councillors were involved in the budget preparation process, and it was suggested that there was potential for greater cross-party involvement to seek a solution to the issue facing the Council.

The Committee noted that budget workshops were already being held for all Councillors, and financial information was shared widely.

The Leader of the Council advised the Committee that the Council was faced with limited time to meet huge challenges, and radical change would be needed in the coming months which would require difficult choices to be made. The administration of the Council would share all the information which it had. The Portfolio Holder for Resources, considered that the administration was as open as it could be, and that financial Officers did spend a significant amount of time responding to questions which were asked of them. There were many briefings for Councillors on the Council's Capital Programme, together with budget briefings, and the diligence and hard work of Officers was appreciated.

RESOLVED that:

- The General Fund revenue position at the end of Quarter 2 (30 September 2023) for 2023/24, including actions being undertaken or proposed to ameliorate the position, where significant variances have been identified, be noted.
- The General Fund capital position at the end of Quarter 2 (30 September 2023) for 2023/24 be noted.
- The Housing Revenue Account revenue position at the end of Quarter 2 (30 September 2023) for 2023/24, including actions proposed to ameliorate the position, where significant variances have been identified, be noted.



The Committee considered a report setting out its work programme for the current municipal year.

A Committee member expressed his concerns about some issues which had been experienced with Councillors receiving emails sent to their official Colchester City Council email accounts. He believed that it was essential that the Council email system was used to its fullest capacity, and that when residents and Members send emails to Councillors, then these emails had to be received. On 16 November, a report had been received from the Council's email provider that 17 emails which had been sent to a Councillor had been quarantined for unstated reasons before being forwarded on as a block. Emails were only quarantined for 21 days before being deleted. Some emails which had been subject to quarantine had dated from 24 and 25 October 2023, and had been delivered on 16 November meaning that they were subsequently unable to be retrieved, which was totally unacceptable. It was concerning that the emails which had been quarantined had been awarded a score which assessed the relative harm that they posed, and this score had been zero, indicating that they posed no issues at all.

It was suggested that such delays posed a serious governance issue, and it was not known how many other Councillors had had their emails interfered with in this way. It was essential that Councillor emails were not blocked or interfered with in this way as it was of fundamental importance that Councillors were able to be contacted by their constituents and other Councillors. It was suggested that this issue was so serious that it merited formal investigation by a Committee.

The Chair of the Committee shared the concerns that had been raised that emails had been quarantined in this manner. The Democratic Services Officer was asked to investigate the extent of the issues which had been experienced before the Chair took the decision on whether or not to commission a report investigating the position.

Andrew Weavers, Head of Governance and Monitoring Officer, advised the Committee that emails which were deemed to contain an attachment which was hostile to the Council would be subject to quarantine. Although he was not aware of the circumstances behind the incident which had been described, the Committee was reminded that the Council's systems did come under attack, and Officer emails were also subject to quarantine.

The Committee noted that an additional meeting had been scheduled for 7 February 2024, which would allow the accommodation of items which were due to be considered by the Committee.

A Committee member requested that an update on the progress which was being made with the Council's statement of accounts was provided at every future meeting, until such time as the Council's statutory obligations had been met in this regard.

The Chair of the Committee would consider the order in which items on the work programme were presented to the Committee. It was clarified that the proposed budget would not be presented to this Committee, but would be presented to the Council's Scrutiny Panel, Cabinet and Full Council.

RESOLVED that:

- An update on the progress which had been made with regard to the Council's statement of accounts be provided at every future meeting of the Committee
- The contents of the work programme, subject to any changes in the order in which items were to be presented, be noted