

Governance and Audit Committee Meeting

**Online Meeting, Virtual Meeting Platform
Tuesday, 24 November 2020 at 18:00**

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

Information for Members of the Public

Access to information and meetings

You have the right of access to all meetings of the Council, its Committees and Cabinet which may be conducted remotely such as by live audio or video broadcast / webcast. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is published on the Council's website at least 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>.

Occasionally certain issues, for instance, commercially sensitive information or details concerning an individual have to be considered in private. When this is the case an announcement will be made, the live broadcast will end and the meeting will be moved to consider in private.

Have Your Say!

The Council welcomes contributions in the form of written representations from members of the public at most public meetings. One single contribution to each meeting of no longer than 500 words may be made by each person which must be submitted via the form accessed by this link, before noon on the working day before the meeting date: [Governance and Audit Have Your Say!](#)

If you would like to submit representations to 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>.

E-mail: democratic.services@colchester.gov.uk
www.colchester.gov.uk

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

Accounts and Audit

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

Governance

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

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

Other regulatory matters

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

To determine and approve Community Governance Reviews.

Standards in relation to Member Conduct

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

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

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

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

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

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

General

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

COLCHESTER BOROUGH COUNCIL
Governance and Audit Committee
Tuesday, 24 November 2020 at 18:00

The Governance and Audit Committee Members are:

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

Chairman
Deputy Chairman

The Governance and Audit Committee Substitute Members are:

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

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

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

1 Welcome and Announcements (Virtual Meetings)

The Chairman will welcome members of the public and Councillors to the meeting and remind those participating to mute their microphones when not talking. The Chairman will invite all Councillors and Officers participating in the meeting to introduce themselves. The Chairman will, at regular intervals, ask Councillors to indicate if they wish to speak or ask a question and Councillors will be invited to speak in turn by the Chairman. A vote on each item of business will be taken by roll call of each Councillor and the outcome of each vote will be confirmed by the Democratic Services Officer.

2 Substitutions

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

3 Urgent Items

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

4 Declarations of Interest

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

5 Have Your Say! (Virtual Meetings)

Members of the public may make representations to the meeting. Each representation may be no longer than three minutes (500 words). Members of the public may register their wish to address the meeting by registering online by 12.00 noon on the working day before the meeting date. In addition a written copy of the representation will need to be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself.

6 Minutes of Previous Meeting

The Councillors will be invited to confirm that the minutes of the meeting held on 27 July 2020 are a correct record.

Minutes - 28 July 2020

7 - 12

7 Audit of 2019/2020 Accounts

13 - 70

1.1 The Council's external auditors BDO will present their Audit Completion Report to the Committee.

8 Equality and Safeguarding - Annual Update Report

71 - 86

The Committee will consider a report setting out the Council's duties and updates for Equality & Safeguarding, and which illustrates the steps the Council has taken to meet these mandatory requirements and specific duties.

9 Review of the Council's Ethical Governance Policies

87 - 172

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

10 Annual review of the Members' Code of Conduct and the Council's Localism Act Arrangements

173 -
208

The Committee will review the Councillors' (Members') Code of Conduct, the Council's Localism Act Arrangements for dealing with complaints made regarding councillors and to make recommendations to Full Council regarding any necessary amendments.

11	Review of Local Code of Corporate Governance	209 - 242
	The Committee will review the Local Code of Corporate Governance for 2020/21. The Local Code of Corporate Governance is how the Council demonstrates that its structures comply with the recognised principles of good governance.	
12	Review of Member / Officer Protocol	243 - 252
	The Committee will consider a report requesting a review of the Council's Member / Officer Protocol.	
13	Review of Gifts and Hospitality Guidance	253 - 264
	The Committee will consider a report requesting the approval of updated guidance for councillors and policy for employees. The Council provides guidance for councillors regarding any gifts and hospitality received in their role as a councillor. The Council has also adopted a policy for its employees in relation to any gifts and hospitality received.	
14	Governance and Audit Work Programme 2020-2021	265 - 268
	The Committee is asked to note the contents of the Work Programme for 2020-2021.	
15	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)**

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GOVERNANCE AND AUDIT COMMITTEE

27 July 2020

Present:- Councillor Nick Barlow, Councillor Paul Dundas,
Councillor Mark Goacher, Councillor Sam McCarthy,
Councillor Chris Pearson (Chairman), Councillor Dennis
Willetts, Councillor Barbara Wood

Also Present: -

217. Declarations of interest

Councillor Dundas declared a non-pecuniary interest in agenda item 6 as he was involved in a business which was in receipt of a rates grant.

218. Review of the Governance Framework and Draft Annual Governance Statement

Hayley McGrath, Corporate Governance Manager, attended to assist the Committee and presented the report. The Committee heard that the this report was being presented to them to provide some additional clarity and assurance on the governance arrangements that were in place during the final two weeks of the preceding financial year, and to give confidence that these arrangements were appropriate and operating correctly. The Committee heard that three types of decision had been made during the two period in question; emergency decisions, urgent decisions and operational decisions. Following examination of the decisions that were made, Hayley confirmed that no decisions had been made under the emergency powers, and just two decisions had been made that were considered urgent, and neither of these decisions applied to systems which were operational at the time. The remainder of the decisions that had been taken were under operational powers, and the majority of these related to business continuity processes.

Councillor Willetts commented that governance was the foundation which underpinned the integrity of the Council's decision making and was a continuous process. He commented that he believed that the period from 23 March 2020 until 5 April 2020 should have been covered via a set of reliable governance arrangements in place which reflected the seriousness of the national predicament, and that he had not yet seen a full summary of what had happened and the criteria used to ensure good governance. Councillor Willetts expressed his concern that he believed that the scrutiny of decisions had been arbitrarily suspended during this period, and asked what mechanism for scrutiny had been in place for the decisions that had been taken. Councillor Willetts stated that until a report had been presented to the Committee detailing precisely the scrutiny and governance arrangements that had

been in place, he could not support the Draft Annual Governance Statement.

Councillor Pearson understood some of Councillor Willett's disquiet, but reminded the Committee that the period in question was only eight days, at the end of a twelve month period during unprecedented circumstances and great uncertainty. Having looked at the decisions that had been taken, Councillor Pearson could see no reason why the Statement should not be approved by the Committee, particularly as a further Governance Statement would be presented to the Committee which would provide details of all decision making which had taken place during the entire pandemic.

Hayley McGrath responded to Councillor Willett's comments and confirmed that Internal Audit had been appointed to carry out a thorough review of the decision making and governance processes in the light of Covid-19 and how the Council had responded. A detailed report of the findings would be presented to this Committee over the period of the next financial year.

Councillor Barlow made the point with regards to the scrutiny process of the Council, that the purpose of scrutiny was to examine decisions once they had been made, and not to be involved in the decision making process itself. Given the circumstances that surrounded the eight day period in question, he was more than happy to approve the draft Governance Statement, and was happy with the information that had been provided.

Andrew Weavers, Strategic Governance Manager, informed the Committee that the two urgent decisions which had been taken in relation to the Business Rate Grants and the discretionary grants had both been subject to the approval of the Chair of the Scrutiny Panel before they had been made. This decision making process had subsequently been referred to Scrutiny Panel where it was noted, and had also been the subject of a report to Cabinet.

Councillor Goacher made the point that now that electronic meetings process had been completely implemented, the situation regarding the decision making over the eight day period in question was unlikely to arise again.

RESOLVED that the Annual Governance Statement for 2019/20 be approved, and agreed that it be signed by the Leader of the Council and Chief Executive.

219. Local Government Association Consultation on Draft Model Member Code of Conduct

Andrew Weavers, Strategic Governance Manager, attended to present the report and assist the Committee with their enquiries. The Committee were advised that prior to 2011, there had existed a national code of conduct which had been repealed by the Localism Act 2011, leaving it to individual Local Authorities to adopt their own codes. Colchester Borough Council had adopted a code of conduct that was based on a model used across Essex, to ensure that there was continuity for Members. The Committee were advised that by way of the consultation they were being asked to consider a voluntary model code of conduct which the Local Government

Association (LGA) was hopeful would be adopted by Local Authorities. The Committee heard that the proposed code of conduct was broadly similar to the Colchester Borough Council's current code of conduct, save for the addition of a provision concerning not bringing the role of Councillor or the Council into disrepute. Andrew requested that the Chair and Group Spokespersons work together to formulate a response to the consultation, with the approval of the Committee, and reminded Members that if they wished to do so, they were able to make their own response via the LGA website until 17 August 2020.

Councillor Dundas supported a detailed response to the consultation being made by the Chair and Group Spokespersons outside the setting of a formal meeting, as he felt that this would be more effective. Councillor Dundas suggested that where the current code of conduct was effective then this should not be changed, and this was supported by Councillor Barlow, who felt that there were areas in the proposed code of conduct which were not as effective as the current code and should not be adopted.

RESOLVED that the Committee had reviewed the Local Government Association's consultation on its draft Member Code of Conduct, and that the Monitoring Officer be authorized to finalise the Council's response in consultation with the Chair and Group Spokespersons.

220. Initial summary of Digital Council Meetings

Councillor Pearson introduced the item by saying that he felt it was important to have an early review of the digital meetings process to give all Councillors the opportunity to have an input into the process, and to give the opportunity to address and correct any issues that had arisen.

Hayley McGrath, Corporate Governance Manager, attended to assist the Committee and presented the report. The Committee heard that prior to Covid-19 there had been no digital conferencing facilities for meetings, and that a lot of work had been undertaken in a very short period of time to enable people to partake in online meetings. A lot of positive comments had been received supporting the online meetings process, and the Committee were provided with statistics detailing the number of times meetings had been viewed online, by members of the public, Councillors and Officers. By way of comparison, the Committee heard that there had been a significant increase in the number of views of online meetings in June and July 2020, when compared to the number of people who had listened to the live audio streams of meetings broadcast in June and July 2019. Hayley confirmed that there had been no negative comments received from members of the public in relation to the live meetings, but that some issues had been raised by Members and Officers in relation to etiquette. The Committee heard that the next step on the evaluation process was to obtain feedback from Councillors and Officers by way of a consultation, which would be reported back to this Committee in the future.

Councillor McCarthy was encouraged by the sheer volume of people that had engaged with the videos via YouTube, and expressed his gratitude for the work that

had gone into making the meetings available and providing the necessary training.

Councillor Dundas commented that although in the future he considered it would be necessary to re-introduce some element of physical meetings, it was important not to lose what had been gained from remote meetings. He commented on the time saved in travelling back and forth to the Town Hall, together with the environmental impact that this also had in terms of fuel consumption. He firmly supported the implementation of a hybrid system of meetings, to allow for short meetings to be held online, and for visiting Councillors and other guests to access the meeting remotely to save both waiting and journey times. He also considered that the greater flexibility offered by remote meetings would be an important factor in encouraging people to be Councillors who would otherwise not have been able to attend meetings due to work or childcare commitments, and remarked on the fact that since the introduction of remote meetings there had been noticeable fewer substitutions as Councillors were able to attend meetings more readily.

Councillor Barlow commented that he had found virtual briefings outside of formal Committee Meetings very useful, and even if the Council returned to having physical meetings, he would support using virtual meetings for briefings wherever possible. He further commented that there was a different experience for those Councillors who chaired meetings, and requested that this be taken into account during the review.

Councillor Willetts confirmed that he had canvassed the Conservative Group prior to the meeting and made the point that no account appeared to have been taken of the value of Members time, in the same way that Officer time was costed out when considering the savings offered by remote meetings. He also raised the issue of training for Councillors and felt that some Members had not yet been adequately trained in managing the situation of a large virtual Council meeting of fifty one people under formal conditions. He suggested that Members be advised on the use of the mute/unmute button and also to ensure that their computer equipment was updated in good time before attending a virtual meeting, and that the training that was provided be evaluated to ensure that it was valuable for Members of all ability. With regard to voting at meetings, Councillor Willetts queried whether or not the voting procedure at Council meetings needed to proceed to a named vote, or whether Members could be invited to indicate whether or not they wished to vote or the matter could be dealt with by assent. He also raised the issue of Members needing access to two screens to allow them to observe the meetings while still being able to reference potentially complicated reports and supporting paperwork. Councillor Willetts supported the use of hybrid meetings in the future, but did accept that this was dependent on future changes to the legislation from central government.

Councillor Wood praised the convenience of the remote meetings, and the training and support that had been offered to Members, although she conceded that it was a slight drawback not being able to speak to people face to face.

Councillor Goacher supported the convenience aspect of remote working, as he was able to attend the meeting whilst on holiday, and supported the use of hybrid meetings in the future.

Councillor Pearson expressed his thanks to all the Officers involved in setting up the remote meetings process in such a short period of time. He noted and supported the intention to involve both Councillors and Officers in the forthcoming consultation, and requested that members of the public also be included in this process. Councillor Pearson enquired whether it was possible to have an electronic voting system to allow Members to press a button on their computer to indicate how they wished to vote on an issue, although he accepted that there would be times when a named vote would be necessary. He supported the previous comments of the Committee on the issue of training for Councillors and requested that the offer of training and support be extended for Councillors who may have varying ability with using the software. In the light of comments made during the meeting, Councillor Pearson requested that thought be given to the issue to the provision of computer equipment to allow Members to access meetings more efficiently, saying that although there would be an initial cost to this, this cost may be outweighed by the ensuring that all Members and Officers attending meetings, had the appropriate equipment to do so.

RESOLVED that the summary of virtual meetings undertaken by Colchester Borough Council since June 2020 be noted, together with the future review of digital meetings.

221. Work Programme 2020-2021

Richard Clifford, Lead Democratic Services Officer, attended to present the report and assist the Committee with their enquiries.

RESOLVED that the contents of the work programme be noted, subject to the addition of an item on the digital working review in the September meeting.

24th November 2020

Report of	Assistant Director – Corporate and Improvement	Author	Paul Cook ☎ 505861
Title	Audit of 2019/20 Accounts		
Wards affected	All		

1. Executive Summary

1.1 The Council's external auditors BDO will present their Audit Completion Report to the Committee. A draft of the report is attached and BDO will update and present their findings at the meeting detailing any changes

1.2 This covering report draws out the main audit conclusions and audit findings.

2. Recommended Decision

2.1 To approve the 2019/20 Statement of Accounts

2.2 To receive the Audit Completion Report and take any necessary action

2.3 To sign the letter of representation set out in the Audit Completion Report.

2.4 To consider any recommendations from the audit report.

3. Reason for Recommended Decision

3.1 To conclude the 2019/20 audit.

4. Alternative Options

4.1 None

5. Background Information

5.1 Owing to the impact of the Covid-19, MHCLG has made amended regulations which extended the statutory deadlines for publication of statements of accounts with audit opinion from 30 September 2020 to 30 November 2020 for all local authorities.

5.2 At the time of writing this report, the final set of accounts are still under review by the auditors however given the contents of the draft audit report, officers are not expecting any material changes. Any amendments will be highlighted and presented by BDO at the Committee.

5.3 This report sets out the External Auditor's findings. The Council has again been given an unqualified opinion on the financial statements and its use of resources despite the impact of Covid-19.

- 5.4 The Audit Completion Report is summarised in the table below. As identified in February's Audit Plan the following were assessed as being the most significant risks of material misstatement in the financial statements. References in the second column are the BDO page number

Audit Risk	Page	Risk Rating	Errors identified	Control Findings
Management override of Controls	12	Significant	No	No
Revenue Recognition	13	Significant	No	No
Expenditure cut-off	14	Significant	No	No
Valuation of non-current assets	15	Significant	No*	No
Valuation of pension liability	18	Significant	No	No
E-financials General Ledger System Upgrade	20	Significant	No	No

*Any amendments will be presented verbally to the committee

- 5.5 In addition, the auditors have highlighted within the "other deficiencies" section of the report matters that arose during the audit. These are disclosed on page 33. This has led to a potential unadjusted error of £111k in the Council's accounts in relation to the Council's Amphora subsidiary. Further details surrounding the issues can be found on page 22. The Council will provide a full response to these issues at the next Governance and Audit Committee following receipt of the audit letter.
- 5.6 As an initial response the Council accepts these useful findings by BDO. The following areas are now appropriate for review in 2020/21 given the increasing scale of subsidiary operations and any impact of Covid-19. It is not expected the reviews will result in any substantial impact on the Council's overall finances.
- 5.7.1 Capitalisation policies in Amphora will be reviewed to ensure these are consistent with wider local authority principles
- 5.7.2 The interest rates charged to Amphora will be reviewed. This was already in progress but unfortunately delayed due to Covid-19 work pressures
- 5.7.3 Proposals to avoid any conflict of interest within senior management will be brought forward to continue the Council's high standards of transparency and accountability

6. Equality, Diversity and Human Rights implications

- 6.1 Consideration will be given to equality and diversity issues in respect audit recommendations. This will be done in line with agreed policies and procedures including production of Equality Impact Assessments where appropriate.

7. Standard References

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

7. Strategic Plan References

- 7.1 The 2019/20 budget was underpinned by the Strategic Plan priorities and sought to preserve and shift resources where needed to support these priorities.

8. Consultation

- 8.1 Public access rights were available during the audit.

9. Publicity Considerations

- 9.1 Public access rights were available during the audit.

10. Financial implications

- 10.1 As set out in the report.

11. Health, Wellbeing and Community Safety Implications

- 11.1 N/A

12. Health and Safety Implications

- 12.1 N/A

13. Risk Management Implications

- 13.1 In As set out in the Audit Completion report

14. Environmental and Sustainability Implications

- 14.1 N/A


Appendices

Appendix A – BDO Audit Completion Report

Final Statement Accounts - <https://www.colchester.gov.uk/info/cbc-article/?catid=our-council-governance&id=KA-01764>

Background Papers

Draft Statement of Accounts



Report to the Governance and Audit Committee

COLCHESTER BOROUGH COUNCIL

Audit Completion Report: year ended 31 March 2020

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We have pleasure in presenting our Audit Completion Report to the Governance and Audit Committee. This report is an integral part of our communication strategy with you, a strategy which is designed to ensure effective two way communication throughout the audit process with those charged with governance.

It summarises the results of completing the planned audit approach for the year ended 31 March 2020, specific audit findings and areas requiring further discussion and/or the attention of the Governance and Audit Committee. At the completion stage of the audit it is essential that we engage with the Governance and Audit Committee on the results of our audit of the financial statements and use of resources comprising: audit work on key risk areas, including significant estimates and judgements made by management, critical accounting policies, any significant deficiencies in internal controls, and the presentation and disclosure in the financial statements.

We look forward to discussing these matters with you at the Governance and Audit Committee meeting and to receiving your input.

In the meantime if you would like to discuss any aspects in advance of the meeting we would be happy to do so.

This report contains matters which should properly be considered by the Council as a whole. We expect that the Governance and Audit Committee will refer such matters to the Council, together with any recommendations, as it considers appropriate.

We would also like to take this opportunity to thank the management and staff of the Council for the co-operation and assistance provided during the audit.

Lisa Clampin

12 November 2020

The contents of this report relate only to those matters which came to our attention during the conduct of our normal audit procedures which are designed primarily for the purpose of expressing our opinion on the financial statements and use of resources. This report has been prepared solely for the use of the Governance and Audit Committee and Those Charged with Governance and should not be shown to any other person without our express permission in writing. In preparing this report we do not accept or assume responsibility for any other purpose or to any other person. For more information on our respective responsibilities please see the appendices.



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OVERVIEW

Executive summary

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This summary provides an overview of the audit matters that we believe are important to the Governance and Audit Committee in reviewing the results of the audit of the financial statements of the Group and use of resources of the Council for the year ended 31 March 2020.

It is also intended to promote effective communication and discussion and to ensure that the results of the audit appropriately incorporate input from those charged with governance.



Overview

Our audit work is substantially complete and subject to the successful resolution of outstanding matters, we anticipate issuing our opinion on the Group’s financial statements and the Council’s use of resources for the year ended 31 March 2020 by the deadline of the 30 November 2020.

Outstanding matters are listed on page 44 in the appendices.

There were no significant changes to the planned audit approach and no additional significant audit risks have been identified.

No restrictions were placed on our work.

Audit report

We anticipate issuing an unmodified audit opinion on the consolidated Group financial statements and the Council’s single entity financial statements.

The financial statements include disclosures about a material valuation uncertainty in respect of Property, Plant and Equipment, and ‘Property’ assets within the Local Government Pension Scheme Assets, due to the impact of Coronavirus (Covid-19). We anticipate including an Emphasis of Matter paragraph in our audit report, referring to this material valuation uncertainty. This does not represent a qualification of the opinion, but sign-posts the reader to certain disclosures in the financial statements that we consider are key to understanding the financial statements. We have no exceptions to report in relation to the arrangements in place to secure economy, efficiency and effectiveness in the use of resources.

THE NUMBERS

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Final materiality

Group final materiality was determined based on gross expenditure.

Changes were made to planning materiality as a result of the gross expenditure being higher in the draft financial statements compared to previous years.

Material misstatements

Our audit identified one material disclosure error within the note which details the maturity analysis of financial liabilities, Note 20 in the draft financial statements.

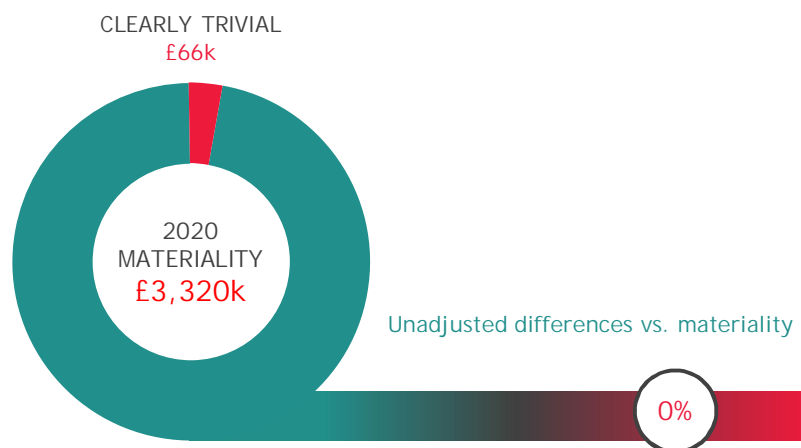
Management has amended the financial statements for this issue, which has no effect on the deficit on the provision of services for the year.

Unadjusted audit differences

We did not identify any audit differences that have not been adjusted for.

Audit scope

Our approach was designed to ensure we obtained the required level of assurance across the components of the Group in accordance with ISA (UK) 600 (Audits of Group Financial Statements). This objective has been achieved.



OTHER MATTERS

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Financial reporting

- We have not identified any non-compliance with Group accounting policies or the applicable accounting framework.
- No significant accounting policy changes have been identified impacting the current year.
- The going concern disclosures are deemed sufficient.
- The Narrative Report Statement and other information included in the Statement of Accounts with the financial statements is consistent with the financial statements and our knowledge acquired in the course of the audit.
- The Annual Governance Statement is not inconsistent or misleading with other information we are aware of.
- The Council is below the audit threshold of £500 million for a full assurance review of the Whole of Government Accounts Data Collection Tool (DCT).

Other matters that require discussion or confirmation

- Confirmation on fraud, contingent liabilities and subsequent events.
- Letter of Representation.

Independence

We confirm that the firm and its partners and staff involved in the audit remain independent of the Council and the Group in accordance with the Financial Reporting Council's (FRC's) Ethical Standard.



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CORONAVIRUS

The effects on year-end reporting and auditing

The emergence and spread of Coronavirus has had an effect on business and markets around the world. Guidance is now available to assist in identifying the potential corporate reporting and auditing issues and consequences of the virus, and there have been a number of Local Government specific issues, including relaxations to accounts preparation and audit timetables.

However, given the fast moving and ever changing nature of the situation, aspects of this corporate guidance will change over time. The outbreak is an in-year event and will impact the valuations, estimations and disclosures reflected in the financial statements for periods ending on or after 31 March 2020.

Going concern

In respect of going concern, directors are required to consider events that have occurred both before and after the balance sheet date when determining whether there is a material uncertainty over the ability to continue as a going concern. Consequently, forecast financial information, sensitivity analysis (which may require additional and/or different potential variances to be included) and compliance with bank and other covenants will need to factor in the estimated effects of the Coronavirus pandemic.

A common approach that is developing, and which BDO is encouraging from directors, in relation to each set of financial statements that is prepared for audit is:

- The assessment of going concern directors are required to undertake needs to explicitly consider the impact of Coronavirus to accommodate the uncertainty prevailing and must cover the period of at least 12 months from the date of signing the financial statements. The assessment may not be limited to this period if there are foreseen events or conditions beyond this period which may influence the economic decisions of users.

- The assessment needs to consider the entity's resilience through three lenses - operational capability (closed locations, reduced workforce through illness, breakdown in supply chain), demand for services (effect on income and expenditure) and structural finance (liquidity and access to committed facilities).
- If the directors consider that there are material uncertainties, this will need to be referenced in the relevant disclosure and will result in a material uncertainty reference in the audit report (albeit the audit opinion is not qualified).
- The going concern disclosures in the basis of preparation note in the financial statements will also need to be enhanced.

Within local government, the Government's commitment to ensure that local authorities are adequately compensated for additional expenditure incurred or income lost directly as a result of the Coronavirus pandemic, removes some of the uncertainty faced by non-public sector entities. However, the directors' (in a local government context this would mean the Senior Management Team) assessment of going concern, and associated disclosures in the financial statements, are still expected to fully consider and record the impact of Coronavirus.

The auditor's review of directors' assessments must be greater than normal, will require more evidence, and will continue to be performed through to the point of signing the audit report.

CORONAVIRUS

The effects on year-end reporting and auditing

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Financial reporting implications

Grant funding

Grant funding received before 31 March 2020 to fund expenditure related to the Coronavirus pandemic will need to be assessed for conditions and recognised in accordance with the requirements of the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom (the Code).

Valuations of financial and non-financial assets and liabilities:

Data used in valuations of financial and non-financial assets and liabilities should be based on forecasts, projections and assumptions that were reasonable and supportable at the balance sheet date. For 31 March 2020 year ends, given that the significant development and spread of Coronavirus occurred within the financial year and that the World Health Organisation announced a global health emergency on 31 January 2020, the estimated impact of the Coronavirus pandemic will need to be factored into this data.

Subsequent events disclosure

Significant income and expenditure incurred as a result of the Coronavirus pandemic after 31 March 2020 and up to the date of signing may need to be disclosed as a non-adjusting post balance sheet event, if considered of such importance as to affect the ability of users of the financial statements to make proper evaluations.

Leases:

IFRS 16 Leases will be effective from 1 April 2021 (a further one year deferral).

Narrative reporting implications

The Annual Governance Statement should clearly set out the risks arising from Coronavirus.

Local authorities will need to monitor developments and ensure that they are providing up-to-date and meaningful disclosures when preparing their Statement of Accounts.

Other guidance

The National Audit Office (NAO) has published a Guide for Governance and Audit Committees on financial reporting and management during the Coronavirus pandemic. This guide aims to help Governance and Audit Committee members support and challenge the organisations they work with in the following areas:

- Annual reports
- Financial reporting
- The control environment
- Regularity of expenditure.

In each section of the guide, the NAO has set out some questions to help Governance and Audit Committee members understand and challenge activities. Each section can be used on its own, although the NAO would recommend that audit committee members consider the whole guide, as the questions in other sections may be interrelated.

The guide may also be used as organisations and Governance and Audit Committees consider reporting in the 2020/21 period when more specific and detailed reporting on the outbreak will be required.

The guide is available through the following link:

<https://www.nao.org.uk/report/guidance-for-audit-and-risk-committees-on-financial-reporting-and-management-during-covid-19/>

CORONAVIRUS

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Implications for auditors

Risk assessment:

- The impact of Coronavirus on going concern is a risk focus area for the audit, and in some cases may be a significant risk. As part of our on-going risk assessment procedures, we need to think about other specific areas and balances where Coronavirus might cause an issue and if this presents an additional risk. This includes the specific considerations in relation to the risks of having services in an affected area and supply chain issues in relation to items coming from these locations. In summary there may be a heightened risk of misstatement for:
 - The valuation and disclosure of financial and non-financial assets including property, plant and equipment (PPE), investment properties, intangibles, investments and accounts receivable
 - The valuation and disclosure of financial obligations and any lending covenants
 - Going concern and/or working capital assessment and disclosure
 - Risk disclosures
 - Subsequent event disclosures
 - As noted above, entities need to consider their reporting of principal risks and uncertainties and we then need to consider this detail as part of our 'review and consider' of the Narrative Statement and Annual Governance Statement, in particular where we believe there are risks missing from the detail.

Sufficient and appropriate audit evidence:

- Personnel from audited entities may be unable to carry out their roles on site and/or be available to meet physically with our audit teams. Likewise, our people may be unable to work at audited entity sites or to travel to our offices, thereby potentially affecting the performance, review and supervision of the engagement team, including that of component or other auditors. We need to:
 - Consider the impact on the audited entity
 - Consider alternative ways of working including the use of our technology tools
 - Consider implications for the quality of audit evidence and reporting.
- In undertaking audit work on the valuation of property, particularly specialised property valued using the Depreciated Replacement Cost method and Modern Equivalent Assets assumptions (including alternative site models), auditors are able to draw upon relevant information and indices collated, assessed and reported on by a firm of valuers, Gerald Eve, as commissioned on behalf of local public auditors by the NAO.
- Valuers are also encouraged by updated RICS guidance to include caveats within valuation reports relating to potential material uncertainties in their assessed valuations. In these cases, such caveats should be included within the Council's financial statements and may be referred to by the auditor in their opinion/report.

OUR METHODOLOGY

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We obtain our audit evidence through a combination of substantive testing, systems and compliance testing.

We planned our audit using different testing methodology depending on the area being audited. Our testing can either be substantive where we directly verify items in the Comprehensive Income and Expenditure Statement (CIES) and Balance Sheet or assurance is obtained based on systems and compliance testing.

We carried out a combination of substantive and systems testing on the following areas in the CIES:

- Expenditure
- Housing Benefits

In all other areas we carried out a wholly substantive approach to testing. This is consistent with the approach that we undertook in the previous year.



AUDIT RISKS OVERVIEW

As identified in our Audit Planning Report dated 17 February 2020 we assessed the following matters as being the most significant risks of material misstatement in the financial statements. These include those risks which had the greatest effect on: the overall audit strategy; the allocation of resources in the audit and the direction of the efforts of the engagement team.

Audit Risk	Risk Rating	Significant Management Judgement Involved	Use of Experts Required	Error Identified	Control Findings to be reported	Discussion points / Letter of Representation
Management override of controls	Significant	Yes	No	No	No	Yes
Revenue recognition	Significant	No	No	No	No	No
Expenditure cut -off	Significant	No	No	No	No	No
Valuation of non-current assets	Significant	Yes	Yes			Yes
Valuation of pension liability	Significant	Yes	Yes	No	No	Yes
eFinancials General Ledger System upgrade	Significant	No	No	No	No	No

 Areas requiring your attention

MANAGEMENT OVERRIDE OF CONTROLS

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Auditing standards presume that management is in a unique position to perpetrate fraud by overriding controls.

Significant risk	
Normal risk	
Significant management judgement	
Use of experts	
Unadjusted error	
Adjusted error	
Additional disclosure required	
Significant control findings to be reported	
Letter of representation point	

Risk description

ISA (UK) 240 - The auditor's responsibilities relating to fraud in an audit of financial statements requires us to presume that the risk of management override of controls is present and significant in all entities.

Work performed

We carried out the following planned audit procedures:

- Reviewed and verified journal entries made in the year, agreeing the journals to supporting documentation. We determined key risk characteristics to filter the population of journals. We used our IT team to assist with the journal extraction.
- Reviewed estimates and judgements applied by management in the financial statements to assess their appropriateness and the existence of any systematic bias.
- Reviewed unadjusted audit differences for indications of bias or deliberate misstatement.
- Considered the operation of the control environment to ensure that in light of remote working and response to COVID-19 there has been no lapse in the operation of the control environment.

Results

Our audit work on journals is complete and we have no matters to report.

We have assessed and corroborated significant management estimates and judgements in the following key areas:

- Valuation of land and buildings
- Pension liability
- Non-domestic rates appeals provision
- Non-collection of receivables
- Depreciation/Amortisation

We have found no evidence of management override or bias for these estimates.

Our review of unadjusted audit differences did not identify any indications of bias or deliberate misstatement.

Our review of the control environment found there had been no lapse in the operation of the control environment

Discussion and conclusion

Our audit work did not identify any issues.

REVENUE RECOGNITION

Auditing standards presume that income recognition presents a fraud risk.

Risk description

Under auditing standards there is a presumption that income recognition presents a fraud risk. For the Council, we consider the risk of fraudulent revenue recognition to be in respect of the accuracy and existence of revenue grants which have conditions attached.

Work performed

We tested an increased sample of grants subject to performance conditions to confirm that the conditions of the grant had been met before the income was recognised in the CIES.

Results

We carried out two sample tests:

- A sample of items that had been credited to services
- A sample of items credited to taxation and non specific grant income
- The correct accounting treatment had been applied dependent upon the status of conditions attached to the grant.

Discussion and conclusion

Our audit work did not identify any issues.

Significant risk

Normal risk

Significant management judgement

Use of experts

Unadjusted error

Adjusted error

Additional disclosure required

Significant control findings to be reported

Letter of representation point

EXPENDITURE CUT OFF

For public sector bodies the risk of fraud related to expenditure is also relevant.

Risk description

For net-spending bodies in the public sector there is also risk of fraud related to expenditure. For the Council, we consider the risk of fraud to be in respect of the cut-off of expenditure at year-end.

Work performed

We checked that expenditure is recognised in the correct accounting period by substantively testing expenditure around year-end.

Results

We substantively tested expenditure transactions throughout the year and around year end to check that expenditure is recognised in the correct accounting period, is classified correctly and accurately recorded.

We used a lower sample selection threshold for testing than we would if the risk had not been significant.

We then carried out top up testing as part of our subsequent events work to cover the period from fieldwork to the date of signing.

Discussion and conclusion

Our audit work to date has not identified any issues.

Significant risk

Normal risk

Significant management judgement

Use of experts

Unadjusted error

Adjusted error

Additional disclosure required

Significant control findings to be reported

Letter of representation point

VALUATION OF NON CURRENT ASSETS

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The valuation of non-current assets is a significant risk as it involves a high degree of estimation uncertainty.

Significant risk	
Normal risk	
Significant management judgement	
Use of experts	
Unadjusted error	
Adjusted error	
Additional disclosure required	
Significant control findings to be reported	
Letter of representation point	

Risk description

Local authorities are required to ensure that the carrying value of land, buildings and dwellings is not materially different to the current value (operational assets) or fair value (surplus assets, assets held for sale and investment properties) at the balance sheet date. There is a risk over the valuation of these assets due to the high degree of estimation uncertainty and where updated valuations have not been provided for a class of assets at the year-end.

Work performed

We carried out the following planned audit procedures:

- Reviewed the instructions provided to the valuer and the valuer's skills and expertise in order to determine if we can rely on the management expert
- Confirmed that the basis of valuation for assets valued in year was appropriate based on their usage
- Reviewed the accuracy and completeness of information provided to the valuer, such as rental agreements and sizes
- Reviewed the assumptions used by the valuer and movements against relevant indices for similar classes of assets
- Followed up valuation movements that appeared unusual
- Confirmed that the assets not specifically valued in the year have been assessed to ensure their reported values remain materially correct.

Results

The Council appointed external valuers to carry out a number of revaluations :

- A sample of general fund properties as at 1 December 2019 with the year-end portfolio review performed as at 31 March 2020.
- Council dwellings and Homeless properties as at 31 March 2020.
- All surplus assets and investment properties as at 31 March 2020.

We assessed the valuer's competence, independence and objectivity and determined we could rely on the management expert.

We reviewed the valuations provided and the valuation methodology applied and, in all cases confirmed that the basis for valuations is appropriate based on Code requirements for all assets. Council dwellings are valued using existing use prices discounted for social housing using the appropriate social housing discount factor, other land and buildings using depreciated replacement cost (DRC) and investment properties at Fair Value.

VALUATION OF NON CURRENT ASSETS

The valuation of non-current assets is a significant risk as it involves a high degree of estimation uncertainty.

Significant risk	
Normal risk	
Significant management judgement	
Use of experts	
Unadjusted error	
Adjusted error	
Additional disclosure required	
Significant control findings to be reported	
Letter of representation point	

Results and discussion

We also reviewed valuation movements against independent data showing indices of price movements for similar classes of assets. We followed up valuation movements that appeared unusual against indices, or any assets which had material movements since the last valuation.

Council dwellings £377.28 million (EUV)

The external valuer provided the Council with a valuation as at 31 March 2020 on a beacon basis, resulting in an increase of 1.73% on the total value and net revaluation gains of £6.2 million. Land registry data showed a 1.9% increase in property prices in the Eastern Region, comparative information for similar residential properties in the area which is more specific to Colchester have also been used to inform the valuations. This is supported by Gerard Eve indices which suggest 1.6% increase for residential properties in the Eastern region. We used these two pieces of benchmarking data to set a range of 1.6% to 1.9%, the increase of 1.73% is therefore within the range. We are satisfied with the valuer's explanations and that the value of council dwellings is not materially misstated. The valuations are caveated by an uncertainty clause and this is discussed below.

Other land and buildings £105.3 million (DRC/EUV)

The Council commissioned valuations on general fund assets totalling £105 million during the year.

The overall increase in other land and buildings was 3.0%, compared to a 1.9% increase indicated by regional trends of property prices in the Eastern region as per Gerald Eve.

We compared each class of asset to an appropriate index for each class of asset and evidenced that the total variance to expectation was not material. For those sampled assets outside the range we obtained explanations for movements and concluded these to be satisfactory.

We have agreed all floor and land areas to supporting floor plans.

Carparks have been valued using the income generated by each carpark and the number of parking spaces. We have obtained justification and challenged the valuer on the assumptions that have been used in the calculation. We consider these to be reasonable.

We have agreed this information to records held by the Council.

Other land and buildings -not revalued in the year

Although all other land and buildings assets are revalued on a five year rolling programme, management also made an assessment as to whether there had been a material change in the value of assets during the intervening years. Each material asset is revalued every year.

We have just completed our procedures in this area and the work needs to be reviewed by senior members in the team. A verbal update will be provided to the Committee on the results of this work.

VALUATION OF NON CURRENT ASSETS

Surplus assets £27 million (Market Value)

The Council commissioned valuations on surplus assets totalling £27m during the year.

The overall increase in surplus assets was 158%.

The increase mainly relates to one asset which was previously a farm but now has various permissions for development. We have reviewed the information provided by the valuer compared this to published industrial land prices and consider the valuation to be reasonable.

Investment properties £39.05 million (Fair Value)

All investment properties were re-valued at 31 March 2020. For these assets, we agreed the rental values used in the calculations with the signed rental agreements and sufficient explanations were provided for any variances. We also set an expectation for the yield prices using market trend data and compared these to the values used in the calculations.

Overall Investment properties increased in value by 3.5%, compared to a 1.9% increase indicated by regional trends of property prices in the Eastern region as per Gerald Eve. We queried specific assets that had movements outside of a reasonable range and sought explanations for this position, we concluded these explanations to be satisfactory.

Material uncertainty

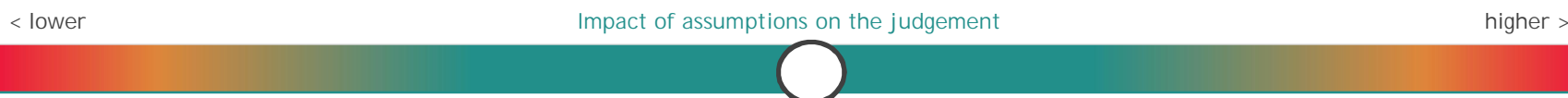
The valuer's have included a material uncertainty statement in their final valuation reports in respect of the year-end valuations, in light of circumstances surrounding coronavirus. Management have made appropriate disclosures to highlight this in the accounts.

We have engaged with our own internal valuation experts and are proposing to include an Emphasis of Matter in the Audit report, to highlight this uncertainty.

Conclusion

We are content with the Council's valuation of non current assets.

Significant Judgement - Valuations (all types combined)



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VALUATION OF PENSION LIABILITY

The valuation of the pension liability is a significant risk as it involves a high degree of estimation uncertainty

Significant risk

Normal risk

Significant management judgement

Use of experts

Unadjusted error

Adjusted error

Additional disclosure required

Significant control findings to be reported

Letter of representation point

Risk description

The valuation of the defined benefit obligation is a complex calculation involving a number of significant judgements and assumptions. The actuarial estimate of the pension fund liability uses information on current, deferred and retired member data and applies various actuarial assumptions over pension increases, salary increases, mortality, commutation take up and discount rates to calculate the net present value of the liability.

There is a risk that the membership data and cash flows provided to the actuary at year end may not be accurate, and that the actuary uses inappropriate assumptions to value the liability. Relatively small adjustments to assumptions used can have a material impact on the Council's share of the scheme liability.

Work performed

We carried out the following planned audit procedures:

- Agreed the disclosures to the information provided by the pension fund actuary;
- Reviewed the competence of the management expert (actuary);
- Reviewed the reasonableness of the assumptions used in the calculation against other local government actuaries and other observable data;
- Reviewed the controls in place for providing accurate membership data to the actuary;
- Contacted the pension fund auditor and requested confirmation of the controls in place for providing accurate membership data to the actuary and testing of that data; and

Work performed continued

- Checked that any significant changes in membership data had been communicated to the actuary.

Results

- Management obtained an IAS 19 valuation for 2019/20. This resulted in a decrease in the pension scheme liability of £4.62 million from the prior year.
- All disclosures in the financial statements agreed to the actuarial report obtained from Barnett Waddingham. The assumptions on which the Council based its disclosure are consistent with those used by the actuary, which are in line with the expectations set out in PwC's consulting actuary report.
- We reviewed the competence of the actuary and concluded that we were able to rely on them.
- Our review of the reasonableness of assumptions used to calculate the present value of future pension obligations is noted on the following page.
- We have obtained assurance from the auditors of the Essex Pension fund over the controls in place for providing accurate membership data to the actuary and the testing of that data.

VALUATION OF PENSION LIABILITY

The valuation of the pension liability is a significant risk as it involves a high degree of estimation uncertainty

Work Performed continued:

- The pension fund auditor has confirmed in their assurance letter that the valuation of property assets has been reported on the basis of 'material valuation uncertainty' due to Covid-19, and this is in line with guidance from Royal Institute of Chartered Surveyors (RICS). As reported in the IAS 19 report, the Council's share of property assets within the gross pension assets is £16.17m. Management has included additional disclosures about this matter.

We anticipate including an Emphasis of Matter paragraph within our audit opinion to refer to this.

Discussion and conclusion

Our audit work did not identify any issues.

Significant risk	
Normal risk	
Significant management judgement	
Use of experts	
Unadjusted error	
Adjusted error	
Additional disclosure required	
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VALUATION OF PENSION LIABILITY

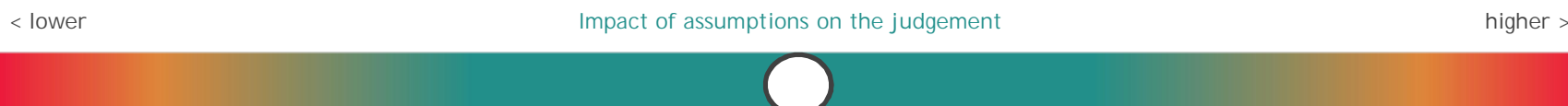
Our consideration of the actuarial assumptions used by the pension fund actuary is noted below. We have referred to the findings from an independent review of actuarial assumptions by PwC, which was commissioned centrally by Public Sector Audit Appointments Limited. The actuary has used the following assumptions at 31 March 2020 to value the future pension liability.

We have compared the assumptions used to an acceptable range and those used across local government actuaries.

	Actual used	Acceptable range	Comments
CPI increase	1.9%	1.85% -1.95%	Reasonable
Salary increase	2.9%	2.85-2.95%	Reasonable
Pension increase	1.9%	1.85% -1.95%	Reasonable
Discount rate	2.35%	2.35%	Reasonable
Mortality -LGPS:			
-Male future	23.2	22.8 -24.7 years	Reasonable
-Female future	25.2	25.2 -26.2 years	Reasonable
-Male pensioners	21.8	21.4 -23.3 years	Reasonable
-Female pensioners	23.7	23.7 -24.7 years	Reasonable
Commutation			
-Pre April 2008	50%	50%	Reasonable
-Post April 2008	50%	50%	Reasonable

We consider that the assumptions and methodology used by the Council's actuary are appropriate and will result in an estimate of the net pension liability which falls within a reasonable range.

Significant Judgement - pension liability



E-FINANCIALS GENERAL LEDGER SYSTEM UPGRADE

There is a risk that balances are not transferred correctly resulting in a material misstatement to the financial statements

Risk description

The Council's general ledger, eFinancials, has been upgraded during the year to move to a different version. The upgrade is being treated as a major upgrade by the Council and a full system implementation is being undertaken. Data migration will be undertaken and therefore there is a risk that balances are not transferred correctly resulting in a material misstatement to the financial statements.

Work performed

We reviewed the system implementation procedures undertaken by the Council and substantively tested the data migration to ensure that balances had been appropriately transferred between the old system and the new system.

Results

We concluded that the most efficient way to test the migration was to substantively test the transfer to the new system.

We agreed that each balance had been correctly transferred from the old system to the new system.

Discussion and conclusion

Our audit work did not identify any issues.

Significant risk

Normal risk

Significant management judgement

Use of experts

Unadjusted error

Adjusted error

Additional disclosure required

Significant control findings to be reported

Letter of representation point

OTHER MATTERS

The following are additional significant and other matters arising during the audit which we wish to bring to your attention.

Issue	Comment
<p>From review of the Equity and loan agreements in place with Colchester Commercial Holdings Limited (CCHL) (a subsidiary of Colchester BC) we identified three areas that we considered required further understanding and audit consideration:</p> <ol style="list-style-type: none"> 1. Advice received by the Council suggested that the interest rate on loans made to its subsidiaries, Colchester Amphora Homes Ltd (CAHL) and Colchester Amphora Energy Ltd (CAEL), should have been higher than that which is currently being charged. 2. Whether the Council's Equity investment of £1.6m in CCHL should have been impaired based on the performance of the subsidiaries. 3. Governance arrangements for the Council's subsidiaries. 	<ol style="list-style-type: none"> 1. The Council loaned £400k to CAHL and £900k to CAEL. Both loans are included in long term debtors in the Council's single entity financial statements. The interest rate charged for the loans is 5% plus base rate for CAHL and 4% plus base rate for CAEL. The Council obtained specialist advice in February 2020, from Link Asset Management (LAM), that stated the interest rate for CAHL specifically should be 7.44% - 10.94% for a one year loan and between 7.54% and 11.04% for a seven year loan, somewhat higher than the rates currently being charged. We therefore carried out some sensitivity analysis to identify the potential impact of the differing rates on the Council's 2019/20 Statement of Accounts. We concluded that the impact was not material to the accounts and, even if the interest rate were charged at the highest level indicated by the LAM advice, the impact on the Council's 2019/20 single entity accounts would be trivial (£57k) to the financial statements this year. However, the Council plans to substantially increase the level of loans it makes to its subsidiaries in the medium term, such that the differences in interest rates could become non-trivial in future years. Consequently, we have included a recommendation in this report for the Council to review the loan terms and interest rates in light of the advice received from its asset management advisors and the risks associated with a relatively new company. 2. In response to our queries on the approach the Council had taken to determining the fair value of its investment in CCHL, the Council provided a schedule detailing the net worth of the CCHL group, which implied that that the net worth of the companies covered the Council's investment by 104%. Further enquiries identified that there was insufficient supporting documentation to justify the capitalised salaries within the work in progress (WIP) figures included in the CAEL and CAHL accounts. A subsequent review of capitalised salaries completed by CCHL suggested that these had been overstated by £12k, thus reducing the net worth of CCHL by £12k. We completed a sensitivity analysis by considering this £12k inaccuracy (best case) scenario against one where all capitalised salaries (£389k for 18/19 and 19/20) are inaccurate (worst case). The best case would still result in the net worth of the subsidiaries being greater than the £1.6m invested, indicating that no impairment is necessary. In the worst case the net worth of the subsidiaries would be £111k lower than the £1.6m investment, indicating potential impairment being required. We have not carried out detailed testing of the capitalised salaries, as neither the salaries nor the £1.6m investment is material, but we have concluded there could be a misstatement of up to £111k in the fair value of the investment. <p>The Council should ensure that adequate records are provided by the subsidiaries to support an evaluation by the Council of their net worth, including information on salary costs capitalised within WIP in the subsidiary accounts, and carry out a full impairment review of its investment in its subsidiaries every year to evidence that the fair value of investment is accurate. This will become more important if the Council increases its investment above a material level, as it plans to do. A recommendation has been included on page 33.</p>

OTHER MATTERS

The following are additional significant and other matters arising during the audit which we want to bring to your attention.

Issue	Comment
Review of Equity and Loan agreements continued:	<p>3. The Chief Executive of the Council is also a director of the CCHL subsidiary. For this role, the Chief Executive receives performance related pay, based on the financial results of the CCHL group. There are four other directors who are Members of the Council but receive no remuneration in respect of their roles within the group structure. The CCHL pay and reward policy states that "CCH operates a bonus scheme to ensure, alongside our competitive basic pay, staff are rewarded by achieving and exceeding targets. Therefore a further 10% of salary can be earned by staff annually".</p> <p>Legal advice received before the set up of the CCHL group stated "we understand that the Chief Executive of the Council may also act as Chief Executive of HoldCo and sit as a director on the HoldCo Board. In this scenario it is possible that conflicts may arise between the Chief Executive's duties as an officer of the Council and his duties as a director of HoldCo. The conflicts mechanism for the HoldCo would need to address this situation and could, for example, require the Chief Executive to refrain from participating in (and voting) on certain limited decisions of the HoldCo Board."</p> <p>The Chief Executive is able to declare an interest and not vote for a particular decision. However, the structure of the voting mechanism for the subsidiary states that should the number of votes for and against a proposal at a meeting of directors be equal, the chairman or other director chairing the meeting has the casting vote. Should the chairman be the Chief Executive he would have the casting vote.</p> <p>The fact that the Chief Executive is entitled to performance related pay based on the performance of the subsidiary compounds the legal advice warning of the potential for conflicts of interest to arise between the Chief Executive's duties as an officer of the Council, his duties as a director of CCHL and his personal interests. This creates a high risk of actual conflicts occurring or adverse publicity from perceived conflicts occurring and the Council should review the governance arrangements in place and put in mechanisms to mitigate this risk.</p> <p>Our work also identified that Minimum Revenue Provision (MRP) isn't currently being charged on the loans in place. Given that there is no repayment plan in place for CAEL (one was recently agreed for CAHL) the Council should consider charging MRP for CAEL in future.</p>
Our review of the financial statements presented for audit identified a number of immaterial notes and disclosures.	As a result of the queries raised a number of these notes have now been removed. However there are still some notes included within the financial statements that we consider to be not material. We request that these are reviewed and removed next year as part of the accounts closure process.

MATTERS REQUIRING ADDITIONAL CONSIDERATION

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Fraud

Whilst the directors have ultimate responsibility for prevention and detection of fraud, we are required to obtain reasonable assurance that the financial statements are free from material misstatement, including those arising as a result of fraud. Our audit procedures did not identify any fraud. We will seek confirmation from you whether you are aware of any known, suspected or alleged frauds since we last enquired when presenting the Audit Planning Report on 17 February 2020.

Related parties

Whilst you are responsible for the completeness of the disclosure of related party transactions in the financial statements, we are also required to consider related party transactions in the context of fraud as they may present greater risk for management override or concealment or fraud.

We did not identify any significant matters in connection with related parties.

Laws and regulations

We have made enquiries of management regarding compliance with laws and regulations and reviewed correspondence with the relevant authorities.

We did not identify any non-compliance with laws and regulations that could have a material impact on the financial statements.

Group matters

Following review of the component auditors' reporting we can confirm:

- There were no limitations on the audit where information was restricted
- We did not identify any fraud at a component level.

UNADJUSTED AUDIT DIFFERENCES: SUMMARY

Summary for the current year

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We are required to bring to your attention unadjusted differences and we request that you correct them.

There is one unadjusted audit difference identified by our audit work which would increase the deficit on the provision of services for the year of £8,962k by £111k and would decrease net assets/liabilities of £386,235k by £111k.

The general fund balance would decrease by £111k if this audit difference was adjusted.

UNADJUSTED AUDIT DIFFERENCES: DETAIL

Details for the current year

	Income and expenditure			Balance Sheet	
	NET DR/(CR) £'000	DR £'000	(CR) £'000	DR £'000	(CR) £'000
Unadjusted audit differences					
Retained deficit on the provision of services for the year before adjustments	8,962				
Adjustment 1: Projected misstatement: Impairment of investment in subsidiary company CCHL					
DR Net cost of services		111			
CR Investment in Subsidiaries					(111)
Total unadjusted audit differences		111			(111)
Deficit on the provision of services for the year if above issues adjusted	9,073				

	General Fund balance £'000
Impact on the General Fund balance	
Balance before unadjusted audit differences	7,934
Impact on deficit on the provision of services above	111
Adjustments that would be reversed from the General Fund and through the Movement in Reserves Statement	(111)
Balances after the above adjustments	7,934

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The differences identified by our audit that were adjusted by management had no effect on the provision of services or the net assets of the Council. They related only to the disclosure notes included with in the financial statements.

ADJUSTED DISCLOSURE OMISSIONS AND IMPROVEMENTS

Disclosure omissions and improvements

We are required to bring to your attention other financial reporting matters that the Governance and Audit Committee is required to consider.

The following adjusted disclosure matters were noted:

- Incorrect disclosure of the maturity analysis for financial liabilities.
- A £104k variance between note 13 and 34 on grants.
- Incorrect classification of short term creditors for HRA.
- Misclassification of short term finance lease creditors for HRA.
- Additions disclosures around Covid 19 in subsequent events.
- Some amendments to the senior officer remuneration note.
- Amendment to the banding of one exit package.
- Reclassifications within the cashflow statement.
- Reference to the material uncertainties in valuations highlighted by the valuer and the pension fund auditor.
- Other narrative amendments in the financial statements and removal of immaterial notes.



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REPORTING ON OTHER INFORMATION

We comment below on other reporting required to be considered in arriving at the final content of our audit report:

Matter	Comment
We are required to report on whether the financial and non-financial information in the Narrative Statement within the Statement of Accounts is consistent with the financial statements and the knowledge acquired by us in the course of our audit.	We are satisfied that the other information in the Narrative Statement is consistent with the financial statements and our knowledge.
We are required to report by exception if the Annual Governance Statement is inconsistent or misleading with other information we are aware of from our audit of the financial statements, the evidence provided in the Council’s review of effectiveness and our knowledge of the Council.	We have no matters to report in relation to the consistency of the Annual Governance Statement with the financial statements and our knowledge.

WHOLE OF GOVERNMENT ACCOUNTS

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Matter	Comment
Auditors are required to review Whole of Government Accounts (WGA) information prepared by component bodies that are over the prescribed threshold of £500 million in any of: assets (excluding property, plant and equipment); liabilities (excluding pension liabilities); income or expenditure. The Council falls below the threshold for review and there is no requirement for further work other than to submit the section on the WGA Assurance Statement to the WGA audit team with the total values for assets, liabilities, income and expenditure.	<p>Local authorities were required to submit the unaudited DCT to HM Treasury and auditors by 30 September 2020. The Council will submit their DCT upon completion of the audit.</p> <p>We are planning to submit the relevant section of the assurance statement to the National Audit Office after the completion of the audit.</p>

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OVERVIEW

We are required to be satisfied that proper arrangements have been made to secure economy, efficiency and effectiveness in the use of resources (value for money) and report to you on an 'except for' basis. This is based on the following reporting criterion:

In all significant respects, the audited body had proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people.

- There are three sub criteria that we consider as part of our overall risk assessment:
- Sustainable resource deployment
 - Informed decision making
 - Working with partners and other third parties.

As identified in our Audit Planning Report we assessed the following matters as being the most significant risks regarding use of resources.

Audit Risk	Criterion	Risk Rating	Issues identified that impact on conclusion
Sustainable Finances	Sustainable resource deployment	Significant	Our work is in progress and we will provide an update at the Committee.

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The Council will need to deliver its savings and achieve income targets to maintain financial sustainability in the medium term and there is a risk that these projections will not be met.

Significant risk

Normal risk

Sustainable resource deployment

Informed decision making

Working with partners and other third parties

Significant control findings to be reported

Risk description

The update to the Medium Term Financial Forecast (MTFF) to 2023/24 has forecast further reductions in Government core grant funding. The Council has a track record of successfully achieving savings plans in previous years, largely from its commercialisation agenda. A balanced budget was set for 2019/20, however a cumulative budget gap of £2.5 million is forecast over the MTFF period.

Work performed

We carried out the following planned audit procedures:

- Reviewed the assumptions used in the Medium Term Financial Forecast, particularly around the likely levels of income from commercial activities
- Monitored the delivery of the budgeted savings in 2019/20 and the plans to deliver identified savings for 2020/21
- Sampled a number of savings schemes and plans
- Held interviews with key officers

Discussion and conclusion

Our work is in progress and we will provide an update at the Committee.

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Area	Observation & implication	Recommendation	Management response
Group Accounts	Advice received by Council suggested that the loan rate charged on the loans to the subsidiaries Colchester Amphora Homes Ltd and Colchester Amphora Energy Ltd should have been higher than that which is currently charged.	Review the loan terms and interest rates in light of the advice received from its asset management advisors and the risks associated with a relatively new company.	
Group Accounts	Our review of the impairment calculations identified that there was insufficient supporting documentation to justify the capitalised salary costs within the work in progress (WIP) figures in the subsidiary accounts.	Ensure that adequate records are provided by the subsidiaries to support an evaluation by the Council of their net worth, including information on salary costs capitalised within WIP in the subsidiary accounts.	
Group Accounts	A full impairment review was not undertaken by the Council.	Carry out a full impairment review of its investment in its subsidiaries every year to evidence that the fair value of investment is accurate.	
Group Accounts	The fact that the Chief Executive is entitled to performance related pay based on the performance of the subsidiary compounds the legal advice warning of the potential for conflicts of interest to arise between the Chief Executive's duties as an officer of the Council, his duties as a director of CCHL and his personal interests.	Review the governance arrangements in place and put in mechanisms to mitigate this risk.	
Group Accounts	Minimum Revenue Provision (MRP) isn't currently being charged on the loans in place.	The Council should prepare a paper to explain the accounting treatment for MRP.	

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OVERVIEW

Opinion on financial statements

We anticipate issuing an unmodified opinion on the Group and the Council financial statements.

The financial statements include disclosures about a material valuation uncertainty in respect of Property, Plant and Equipment, and ‘Property’ assets within the Local Government Pension Scheme Assets, due to the impact of Coronavirus (Covid-19). We anticipate including an Emphasis of Matter paragraph in our audit report, referring to this material valuation uncertainty. This does not represent a qualification of the opinion, but signposts the reader to certain disclosures in the financial statements that we consider are key to understanding the financial statements.

Conclusion on use of resources

We are proposing to issue an unmodified use of resources conclusion.

Conclusion relating to going concern

We have nothing to report in respect of the applicability of the going concern basis of accounting or the Group’s ability to continue as a going concern for a period of at least twelve months from the date of approval of the financial statements.

There are no material uncertainties in relation to going concern disclosed in the financial statements of which we are aware that we need to draw attention to in our report.

Other information

We have not identified any material misstatements that would need to be referred to in our report.

Annual Governance Statement

We have no matters to report in relation to the Annual Governance Statement as it is not inconsistent or misleading with other information we are aware of.

Audit certificate

Include an explanation of anything preventing you signing the audit certificate.

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INDEPENDENCE

Under ISAs (UK) and the FRC’s Ethical Standard we are required, as auditors, to confirm our independence.

Under ISAs (UK) and the FRC’s Ethical Standard, we are required as auditors to confirm our independence.

We have embedded the requirements of the Standards in our methodologies, tools and internal training programmes. Our internal procedures require that audit engagement partners are made aware of any matters which may reasonably be thought to bear on the integrity, objectivity or independence of the firm, the members of the engagement team or others who are in a position to influence the outcome of the engagement. This document considers such matters in the context of our audit for the year ended 31 March 2020.

Details of services, other than audit, provided by us to the Group during the period and up to the date of this report are set out on the following page and were provided in our Audit Planning Report. We understand that the provision of these services was approved by the Governance and Audit Committee in advance in accordance with the Group’s policy on this matter.

Details of rotation arrangements for key members of the audit team and others involved in the engagement were provided in our Audit Planning Report.

We have not identified any relationships or threats that may reasonably be thought to bear on our objectivity and independence.

We confirm that the firm, the engagement team and other partners, directors, senior managers and managers conducting the audit comply with relevant ethical requirements including the FRC’s Ethical Standard or the IESBA Code of Ethics as appropriate and are independent of the Group.

We also confirm that we have obtained confirmation of independence from non BDO auditors and external audit experts involved in the audit comply with relevant ethical requirements including the FRC’s Ethical Standard and are independent of the Council and the Group.

Should you have any comments or queries regarding any independence matters we would welcome their discussion in more detail.

FEES

Fees summary

	2019/20	2019/20	2018/19
	Actual	Planned	Actual
	£	£	£
Audit fee			
• Code audit fee: consolidated Group and single-entity financial statements and use of resources	TBC ¹	48,188	48,188
Non-audit assurance services			
Fees for reporting on government grants:			
• Housing benefits subsidy claim	13,640	13,640	13,640
• Pooling of housing capital receipts return	4,750	4,750	4,750
Total fees	66,578	66,578	66,578

¹ Amendments to the proposed fees

As reported in our audit plan the 2019/20 planned Code fee is the PSAA-published level. The Scale is based on the historical position from 2012/13 and so does not reflect any of the changes in audit scope and depth linked to current audit requirements for property, plant and equipment or pensions liability valuation work or group accounts work. We have commenced discussions with Officers on the total fee impact. We have also had to carry out additional work in respect of the loans and equity investment in Colchester Commercial Holdings Ltd. We will then seek approval of any proposed variation in fee from the Governance and Audit Committee and Public sector Audit Appointments Limited.



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OUR RESPONSIBILITIES

Responsibilities and reporting

Our responsibilities and reporting

We are responsible for performing our audit under International Standards on Auditing (UK) to form and express an opinion on your consolidated and Council financial statements. We report our opinion on the financial statements to the directors of the Council.

We read and consider the ‘other information’ contained in the Statement of Accounts such as the Narrative Statement. We will consider whether there is a material inconsistency between the other information and the financial statements or other information and our knowledge obtained during the audit.

We report where we consider that the Council had not put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

What we don’t report

Our audit is not designed to identify all matters that may be relevant to the Governance and Audit Committee and cannot be expected to identify all matters that may be of interest to you and, as a result, the matters reported may not be the only ones which exist.



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	Issue	Comments
1	Significant difficulties encountered during the audit.	No exceptions to note.
2	Written representations which we seek.	We enclose a copy of our draft representation letter.
3	Any fraud or suspected fraud issues.	No exceptions to note.
4	Any suspected non-compliance with laws or regulations.	No exceptions to note.
5	Significant matters in connection with related parties.	No exceptions to note.
	Group matters	
6	Limitations on the audit where information was restricted.	No exceptions to note.
7	Any issues with the quality of component auditors work.	No exceptions to note.
8	Any fraud or suspected fraud at group or component level.	No exceptions to note.

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COMMUNICATION WITH YOU

Those Charged with Governance (TCWG)

References in this report to Those Charged With Governance are to the Council as a whole. For the purposes of our communication with those charged with governance you have agreed we will communicate primarily with the Governance and Audit Committee.

In communicating with TCWG of the Council and the Group, we consider TCWG of subsidiary entities to be informed about matters relevant to their subsidiary. Please let us know if this is not appropriate.

Communication, meetings and feedback

We request feedback from you on our planning and completion report to promote two way communication throughout the audit process and to ensure that all risks are identified and considered; and at completion that the results of the audit are appropriately considered.

We have met with management throughout the audit process. We have issued regular updates driving the audit process with clear and timely communication, bringing in the right resource and experience to ensure efficient and timely resolution of issues.

Communication	Date (to be) communicated	To whom
Audit Planning Report	10 March 2020	Governance and Audit Committee
Audit completion report	24 November 2020	Governance and Audit Committee
Annual Audit Letter	19 January 2021	Governance and Audit Committee

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OUTSTANDING MATTERS

We have substantially completed our audit work in respect of the financial statements and use of resources for the year ended 31 March 2020.

The following matters are outstanding at the date of this report and could impact our audit opinion. We will update you on their current status at the Governance and Audit Committee meeting at which this report is considered:

- Final review and clearance of review points by senior team, in particular with respect to PPE valuations;
- Completion of Use of resources work
- Completion procedures:
 - Checks on approved final Statement of Accounts
 - Subsequent events review up to the date of signing
 - Management letter of representation, as attached in the appendices to be approved and signed.



LATEST REGULATORY DEVELOPMENTS

Future of Audit, Regulation and Market Competition

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A number of corporate governance, financial reporting and audit failures since the ‘financial crises’ have led to auditing being the focus of the BEIS Select Committee and the commissioning of three separate, but related, independent reviews scrutinising audit, auditors and the corporate and audit regulatory environment. Although these independent reviews started at various times since 2018, none have yet fully concluded upon and further consultations on precisely what the implementation will look like is expected to take place during 2020. However, that is not to say that changes have not already begun: There are already a number of changes being made by the market participants themselves such as increased operational separation of audit from consulting and voluntary restriction of non-audit services. There have also been a number of changes arise through regulation such as the further restriction on non-audit services introduced with the new ethical standard in December 2019. Other expected changes will be implemented via a suite of consultations expected in 2020. Detailed below is a summary of the current reports issued and their status with a summary of the contents.

Initiative	Timeline 2018	Q1 2019	Q2 2019	Q3 2019	Q4 2019	Status
BEIS Select Committee	‘Carillion’ report issued 5/2018	‘Future of audit’ report issued 24/4/2019	Government response issued 7/6/2019			It is a priority area for the Committee which has a watching brief
Competition and Markets Authority (CMA) Report ‘Statutory Audit Services Market Study’	Launch of Market study 9/10/2018	Responses to consultation 21/1/2019	Report and recommendations published 18/4/2019	First BEIS consultation on implementation ended 13/9/2019		Further consultations expected in 2020
‘Report of the Independent Review in to the quality and Effectiveness of Audit’ – Sir Donald Brydon		Team appointed to undertake review 2/2019	Consultation ended 7/6/2019		Brydon report issued 9/12/2019	Further consultations expected in 2020
‘Independent Review of the FRC’ by Sir John Kingman	Kingman Report published – 83 recommendations 18/12/2018	Secretary of State announces plans for a new regulator (ARGA) 11/3/2019	48 recommendations to be implemented by FRC BEIS first implementation consultation ended 11/6/2019			Further consultations expected in 2020

LATEST REGULATORY DEVELOPMENTS 2

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Report	Topic	Key points
'Independent Review of the FRC' by Sir John Kingman	December 2018 - Future of regulation and the FRC - requested by the Secretary of State	<ul style="list-style-type: none"> Highlighted deficiencies in FRC and its operating effectiveness New regulator to replace FRC 'Audit, Reporting and Governance Authority' Reconsideration of which entities are classed as 'public interest' <p>A number of changes require legislation changes but the FRC is working on implementation where possible.</p>
Related BEIS consultation	BEIS consultation - independent review of the FRC - March 2019 - Recommends adopting a significant number of the Kingman proposals without further consultation - ended June 2019	<p>The proposals being classed as:</p> <ul style="list-style-type: none"> FRC and BEIS will implement as soon as possible Can be implemented once considered, in advance of legislation Primary legislation required <p>Further consultations are expected and will form part of the 2020 suite of consultations undertaken.</p>
Competition and Markets Authority (CMA) Report 'Statutory Audit Services Market Study'	April 2019 - Future of market competition	<p>Report 18 April 2019 - suggestions include</p> <ul style="list-style-type: none"> Increased accountability of Governance and Audit Committees including a focus on how they select auditors and their consideration of audit quality Mandatory joint audits for largest companies including one member not from the big 4 and peer reviews An operational split between the audit and non audit practices of the big 4 A 5 year review of progress by the new regulator <p>Further consultations are expected and will form part of the 2020 suite of consultations undertaken.</p>

LATEST REGULATORY DEVELOPMENTS 3

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Report	Topic	Key points
BEIS (Business, Energy and Industrial Strategy Committee) Report 'The Future of Audit' - 24 April	Consideration of 2 reports - CMA and Kingman - to ensure they will lead to coherent framework	<p>This report considers the CMA and Kingman reports and supports their recommendations and encourages implementation. In particular:</p> <ul style="list-style-type: none"> • Implement Kingman recommendations as soon as possible • Endorsement of CMAs suggestion to split firms operations between audit and non-audit • Segmented market cap and joint audits for FTSE 100 • Detecting fraud a priority • Tightening of dividend regime • Make audit more forward looking • Welcomes introduction of ARGAs - deal with failures more quickly and more stringently <p>Published June 2019.</p>

LATEST REGULATORY DEVELOPMENTS 4

Brydon

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Audit quality

In December 2019 Sir Donald Brydon published his "Report of the Independent Review in to the quality and Effectiveness of Audit" . This report proposes a fundamental changes to the audit profession, the scope of audit and how the Governance and Audit Committee interacts with auditors and shareholders. The report introduces over 100 actions in a number of areas including:

- Audit Purpose, Audit Profession and Auditor reporting;
- Directors' Reporting;
- Role of Shareholders;
- Other stakeholders;
- Internal Controls;
- Fraud;
- Transparency;
- Technology;
- Auditor Liability;
- Audit and Risk Committees;
- KPIs and APMs (Alternative Performance Measures); and
- ARGA - the new regulator.

Key considerations for Audit Firms

- A new definition of audit: " The purpose of an audit is to help establish and maintain deserved confidence in a company, in its directors and in the information for which they have responsibility to report, including the financial statements."
- Recognition of other stakeholders alongside the company's shareholders;
- Creation of a standalone audit profession as opposed to an extension of the accounting profession;
- Introduce the need for 'professional suspicion' alongside 'professional scepticism';

- Replace 'true and fair' with 'present fairly, in all material respects';
- Retain binary audit opinion but create continuity between reports, increase transparency further, have regard to other public information;
- Report specifically on the directors' statement in relation to fraud; and
- Audit firms ensure a clear separation between the team which negotiates the audit fees, and the team which carries out the audit.

Key considerations for Governance and Audit Committees are as follows

- Recommendations for Directors to present to shareholders a three year audit and assurance policy dealing with auditors appointment, assurance budget and risks;
- Directors to present an annual Public Interest Statement and Resilience Statement (replacing the going concern and viability statements) in the annual report;
- Directors to present an annual statement on the actions they have taken to prevent fraud;
- CEO and CFO to provide an annual attestation to the board of directors as to the effectiveness of the company's internal controls over financial reporting;
- Directors be required to disclose when any material failure of their internal controls has taken place;
- Any Alternative Performance Measures reported by a company, and any use of Key Performance Indicators to underpin executive remuneration, should be subject to audit; and
- Publication by the directors of a risk report in advance of the audit with shareholders to be given a formal opportunity to propose matters to be covered in the audit and also permitted to question the Governance and Audit Committee Chair and the auditor.

LATEST REGULATORY DEVELOPMENTS 5

Redmond

On 8 September 2020, Sir Tony Redmond published his Independent Review into the Oversight of Local Audit and the Transparency of Local Authority Financial Reporting

The Report includes a number of key recommendations, including:

- The establishment of new body, the Office of Local Audit and Regulation (OLAR), be created to manage, oversee and regulate local audit, taking on certain responsibilities from Public Sector Audit Appointments (PSAA), Institute of Chartered Accountants in England and Wales (ICAEW), FRC/ARGA, and the Comptroller and Auditor General (C&AG)
- The governance arrangements within local authorities be reviewed by local councils with the purpose of:
 - an annual report being submitted to Full Council by the external auditor;
 - consideration being given to the appointment of at least one independent member, suitably qualified, to the Governance and Audit Committee; and
 - formalising the facility for the CEO, Monitoring Officer and Chief Financial Officer (CFO) to meet with the Key Audit Partner at least annually.
- The current fee structure for local audit be revised to ensure that adequate resources are deployed to meet the full extent of local audit requirements.
- Quality be consistent with the highest standards of audit within the revised fee structure. In cases where there are serious or persistent breaches of expected quality standards, OLAR has the scope to apply proportionate sanctions.
- The deadline for publishing audited local authority accounts be revisited with a view to extending it to 30 September from 31 July each year.
- The external auditor be required to present an Annual Audit Report to the first Full Council meeting after 30 September each year, irrespective of whether the accounts have been certified; OLAR to decide the framework for this report.

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FRC ETHICAL STANDARD

Issued in December 2019

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In December 2019 the FRC published the Revised Ethical Standard 2019 ('ES'), which is applicable from 15 March 2020. There are some transitional provisions for services and arrangements that are not currently prohibited under the existing Standard. The ES aims to further strengthen auditor independence and enhance confidence in the profession. The table below provides a high level summary of the key headlines.

Key headlines	Impact
The objective, reasonable & informed third party test	Reinforcement that ethical principles take priority over rules. A need to take care where particular facts and circumstances are either not addressed directly by the rules or might appear to 'work around' the rules, or result in an outcome that is inconsistent with the general principles.
Extra-territorial impact	For group audits where the audited entity has overseas operations, the ES will require all BDO Member firms to be independent of the UK audited entity and its UK and overseas affiliates in accordance with the UK Ethical Standard, irrespective of if their audit work is relied upon.
Contingent fees	Non-audit services with contingent or success-based fee arrangements will be prohibited for audited entities.
Secondments	All secondments/loan staff to audited entities are prohibited with the exception of secondments to public sector entities.
Recruitment and remuneration services	Prohibition on providing remuneration services to audited entities such as advising on the quantum of the remuneration package or the measurement criteria for calculation of the package. In addition, the prohibition on providing recruitment services to an audited entity that would involve the firm taking responsibility for, or advising on the appointment of, any director or employee of the entity.
Non-audit services to a public interest entity (PIE)	Moving to a "white-list" of permitted non-audit services for PIEs. The white-list largely consists of services which are either audit-related or required by law and/or regulation. The provision of services not on the white-list are prohibited. The ES separates those permitted services which are exempt from the 70% fee cap and those services which are subject to the fee cap.
Other entities of public interest ('OEPI')	<p>OEPI is a new term in the Ethical Standard. The FRC have imposed the 'white-list' applicable to PIE audited entities to also apply to OEPIs. OEPIs are entities which, according to the FRC, do not meet the definition of a PIE but nevertheless are of significant public interest to stakeholders. They include AIM listed entities which exceed the threshold to be an SME listed entity - generally those with a market cap of more than €200m; Lloyd's syndicates; Private sector pension schemes with more than 10,000 members and more than £1billion of assets; Entities that are subject to the governance requirements of The Companies (Miscellaneous Reporting) Regulations 2018 (SI/2018/860), excluding fund management entities which are included within a private equity or venture capital limited partnership fund structure. These would be entities which:</p> <ul style="list-style-type: none">– Have more than 2000 employees; and / or– Have a turnover of more than £200 million and a balance sheet total of more than £2 billion. <p>The FRC have noted that the rules applicable to OEPIs will apply from periods commencing on or after 15 December 2020.</p>

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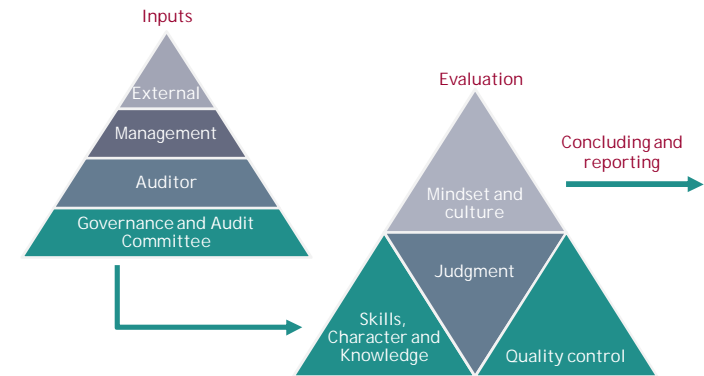
FRC PRACTICE AID FOR GOVERNANCE AND AUDIT COMMITTEES

The FRC issued an updated practice aid for Governance and Audit Committees in December 2019 and a full copy can be found on the [FRC website](#). In their practice aid the FRC note: ‘The directors of a company (the Board as a whole) are responsible for ensuring its financial statements are prepared in accordance with the applicable financial reporting framework and for overseeing the company’s internal control framework. A high-quality audit provides investors and other stakeholders with a high level of assurance that the financial statements of an entity give a true and fair view and provide a reliable and worthy basis for taking decisions.’

The practice aid then discusses how the role of Governance and Audit Committees in serving the interests of investors and other stakeholders is through their independent oversight of the annual corporate reporting process including the audit. The FRC highlight that the responsibility for appointing the external auditor, approving their remuneration and any non audit services work, ensuring their independence and challenging them over the quality of their work falls to the Governance and Audit Committee and can play a key role in facilitating a high quality audit (see note below).

It gives guidance for Governance and Audit Committees in the following areas:

- Audit tenders and the tender process including audit fee negotiations and auditor independence
- A model for use by Governance and Audit Committees in making an overall assessment of an external auditor including inputs, evaluations and concluding:



- Transparency - reporting to the Board on how the Governance and Audit Committee has discharged these responsibilities
- Some guidance on key areas of audit judgement

The provision of high quality audits are a key focus of FRC and the new Executive Director of Supervision, David Rule, sent a letter to all audit firms in November 2019 explaining the factors he would expect to see in place in order to facilitate the delivery of high quality audits. A copy of the letter can be found on the [FRC website](#).

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BDO LLP
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Ransomes Europark
Ipswich
IP3 9SJ

Dear Sirs

Financial statements of Colchester Borough Council for the year ended 31 March 2020

We confirm that the following representations given to you in connection with your audit of the Group and the Council’s financial statements for the year ended 31 March 2020 are made to the best of our knowledge and belief, and after having made appropriate enquiries of other officers and members of the Council and other Group entities.

The Head of Finance and S151 Officer has fulfilled his responsibilities for the preparation and presentation of the Group and the Council financial statements as set out in the Accounts and Audit Regulations 2015 and in particular that the financial statements give a true and fair view of the financial position of the Group and the Council as of 31 March 2020 and of its income and expenditure and cash flows for the year then ended in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom (the Code).

We have fulfilled our responsibilities on behalf of the Council, as set out in the Accounts and Audit Regulations 2015, to make arrangements for the proper administration of the Council’s financial affairs, to conduct a review at least once in a year of the effectiveness of the system of internal control and approve the Annual Governance Statement, to approve the Statement of Accounts (which include the financial statements), and for making accurate representations to you.

We have provided you with unrestricted access to persons within the entity from whom you determined it necessary to obtain audit evidence. In addition, all the accounting records of the Council have been made available to you for the purpose of your audit and all the transactions undertaken by the Council have been properly reflected and recorded in the accounting records. All other records and related information, including minutes of management and other meetings have been made available to you.

[Client name and Letter headed paper]

Going concern

We have made an assessment of the Group and the Council’s ability to continue as a going concern for a period of at least twelve months from the date on which the financial statements were approved for release. As a result of our assessment we consider that the Group and the Council is able to continue to operate as a going concern and that it is appropriate to prepare the financial statements on a going concern basis. Furthermore, we confirm that the disclosures included in note xx to the financial statements are sufficient.

In making our assessment we did not consider there to be any material uncertainty relating to events or conditions that individually or collectively may cast significant doubt on the Group and the Council’s ability to continue as a going concern.

Laws and regulations

In relation to those laws and regulations which provide the legal framework within which the Council’s business is conducted and which are central to our ability to conduct our business, we have disclosed to you all instances of possible non-compliance of which we are aware and all actual or contingent consequences arising from such instances of non-compliance.

Post balance sheet events

There have been no events since the balance sheet date which either require changes to be made to the figures included in the financial statements or to be disclosed by way of a note. Should any material events of this type occur, we will advise you accordingly.

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Fraud and error

We are responsible for adopting sound accounting policies, designing, implementing and maintaining internal control, to, among other things, help assure the preparation of the financial statements in conformity with generally accepted accounting principles and preventing and detecting fraud and error.

We have considered the risk that the financial statements may be materially misstated due to fraud and have identified no significant risks.

To the best of our knowledge we are not aware of any fraud or suspected fraud involving management or employees. Additionally, we are not aware of any fraud or suspected fraud involving any other party that could materially affect the financial statements.

To the best of our knowledge we are not aware of any allegations of fraud or suspected fraud affecting the financial statements that have been communicated by employees, former employees, analysts, regulators or any other party.

Misstatements

We attach a schedule showing uncorrected misstatements that you have identified, which we acknowledge that you request we correct. Where appropriate we have explained our reasons for not correcting such misstatements below. In our opinion, the effects of not recording such identified financial statement misstatements are, both individually and in the aggregate, immaterial to the financial statements as a whole.

Related party transactions

We have disclosed to you the identity of all related parties and all the related party relationships and transactions of which we are aware. We have appropriately accounted for and disclosed such relationships and transactions in accordance with the applicable financial reporting framework.

Other than as disclosed in note 35 to the financial statements, there were no loans, transactions or arrangements between any Group entity and Council members or their connected persons at any time in the year which were required to be disclosed.

Carrying value and classification of assets and liabilities

We have no plans or intentions that may materially affect the carrying value or classification of assets or liabilities reflected in the consolidated Group and Council financial statements.

Accounting estimates

(a) Pension fund

We confirm that the actuarial assumptions underlying the valuation of the Local Government Pension Scheme (LGPS) scheme liabilities, as applied by the scheme actuary, are reasonable and consistent with our knowledge of the business. These assumptions include:

- CPI increase 1.9%
- Salary increase 2.9%
- Pension increase 1.9%
- Discount rate 2.35%

We also confirm that the actuary has applied up-to-date mortality tables for life expectancy of scheme members in calculating scheme liabilities and has taken into consideration the impact of the McCloud judgement in its calculations.

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b) Valuation of housing stock, other land and buildings and investment Properties

We are satisfied that the useful economic lives of the housing stock and other land and buildings, and their constituent components, used in the valuation of the housing stock and other land and buildings, and the calculation of the depreciation charge for the year, are reasonable.

We confirm that the valuations, including desktop valuations, applied in the year, as provided by the valuer and accounted for in the financial statements, are reasonable and consistent with our knowledge of the business and are not materially misstated at year end. In particular, we are satisfied that:

- Council dwellings are based on existing use prices discounted for social housing using the appropriate social housing discount factor;
- Specialised operational land and buildings (including heritage assets) where there is no market based evidence of current value are based on rebuild index prices;
- Non-specialised operational land and buildings are based on existing use prices;
- Investment properties are valued at fair value, based on highest and best use.

c) Allowances for non-collection of receivables

We are satisfied that the impairment allowances for council tax receivables, business rates receivables and housing benefit overpayments are reasonable, based on write-off rates or collection rate data.

d) Non-domestic rates appeals provision

We are satisfied that the calculation for the provision for non-domestic rates appeals is reasonable based the calculation provided by management experts

Litigation and claims

We have disclosed to you all known actual or possible litigation and claims whose effects should be considered when preparing the financial statements and these have been accounted for and disclosed in accordance with the requirements of accounting standards.

Confirmation

We confirm that the above representations are made on the basis of enquiries of management and staff with relevant knowledge and experience (and, where appropriate, of inspection of supporting documentation) sufficient to satisfy ourselves that we can properly make each of the above representations to you.

We confirm that the financial statements are free of material misstatements, including omissions.

We acknowledge our legal responsibilities regarding disclosure of information to you as auditors and confirm that so far as we are aware, there is no relevant audit information needed by you in connection with preparing your audit report of which you are unaware. Each director and member has taken all the steps that they ought to have taken as a director or member of the Council in order to make themselves aware of any relevant audit information and to establish that you are aware of that information.

Yours faithfully

Paul Cook
Head of Finance and S151 Officer

[date]

Cllr C Pearson
Chair of the Governance and Audit Committee

[date]

AUDIT QUALITY

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BDO is totally committed to audit quality

It is a standing item on the agenda of BDO’s Leadership Team who, in conjunction with the Audit Stream Executive (which works to implement strategy and deliver on the audit stream’s objectives), monitor the actions required to maintain a high level of audit quality within the audit stream and address findings from external and internal inspections.

BDO welcomes feedback from external bodies and is committed to implementing a necessary actions to address their findings.

We recognise the importance of continually seeking to improve audit quality and enhancing certain areas. Alongside reviews from a number of external reviewers, the AQR (the FRC’s Audit Quality Review team), QAD (the ICAEW Quality Assurance Department) and the PCAOB (Public Company Accounting Oversight Board who oversee the audits of US companies), the firm undertakes a thorough annual internal Audit Quality Assurance Review and as member firm of the BDO International network we are also subject to a quality review visit every three years.

We have also implemented additional quality control review processes for all listed and public interest audits.

More details can be found in our Transparency Report at www.bdo.co.uk

FOR MORE INFORMATION:

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The matters raised in our report prepared in connection with the audit are those we believe should be brought to your attention. They do not purport to be a complete record of all matters arising. This report is prepared solely for the use of the company and may not be quoted nor copied without our prior written consent. No responsibility to any third party is accepted.

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24th November 2020

Report of	Assistant Director of Communities	Author	Joanne Besant (Equality) & Sonia Carr (Safeguarding) ☎ 01206 506943 / 01206 282978
Title	Equality and Safeguarding - Annual Update Report		
Wards affected	All		

1 Executive Summary

- 1.1 The report sets out the Council's duties and updates for Equality & Safeguarding and illustrates the steps the Council has taken to meet these mandatory requirements and specific duties.
- 1.2 This report will also provide a focus on the Covid-19 pandemic and the impact on Equality and Safeguarding since March 2020. This years events have highlighted the pre-existing inequalities amongst our communities and the disproportionate impact of Covid on our BAME communities, making us all reflect on our response and the communities we serve. We have tried to respond quickly and are looking at ways to increase our understanding, but we are ever mindful of the ongoing impacts of both the virus but the inevitable aftermath that will follow.
- 1.3 The Council will continue to create and build a diverse and inclusive workplace where people are supported to reach their potential. We will refresh our diversity training, introduce staff focus groups to explore and identify how we can promote inclusivity, apply data to understand our workforce and put in place an action plan to address underrepresented areas. The Inclusive objective in the new People's Strategy will compliment and drive this vision.
- 1.4 The Council will increase its commitment to online training, including the launch of a new Safeguarding Level 2 eLearning package (for those frontline staff who may come into contact with a vulnerable adult or child at risk), based on the original Observers scheme.
- 1.5 We will develop our Asset Based approach to Community Development, through more in depth collaboration with our communities and partners to bring about positive change.

2. Recommended Decision

- 2.1 Committee is asked to review the progress made in meeting the Council's legal duties and objectives regarding both Equality and Diversity, and Safeguarding, and to endorse the approach set out at paragraph 7 below.

3. Reason for Recommended Decision

By reviewing the approach in these key areas, the Committee will assist the Council in meeting its legal duties.

3.1 The following appendices have been included at the end of this report to assist the Committee in its task:

- Appendix A - Key improvements and initiatives

4. Continuation of a Combined Approach

- 4.1 This annual report continues a combined reporting approach to scrutiny in the areas of Equality and Diversity, and Safeguarding, bringing the following advantages:
- The two areas of work are mutually supportive and reinforce the importance of Equality & Safeguarding for staff and residents. There has been an increased focus over the last 12 months as a direct result of Covid19.
 - They both involve the principle of proportionality and having “due regard”.
 - Each area helps to support and prevent harm occurring to vulnerable groups.
 - An approach that reviews these two areas together can help to deliver maximum benefit for customers, the most effective management of risk and the most efficient use of resources.

5. National and Local Developments

- 5.1 There have been no changes at Essex County Council; David Finch remains Leader of the Council, with responsibility for Equality and Diversity. Louise McKinlay remains Cabinet Member for Children and Families, Susan Barker remains Cabinet Member for Customer, Communities, Culture and Corporate and John Spence remains Cabinet Member for Health and Adult Social Care (which includes Disabilities).
- 5.2 There have been no changes in terms of national Governance; Therese Coffey MP remains Secretary of State for DWP including administration of state benefits and providing support to families and children, disabled people (appointed Sept 2019), Elizabeth Truss MP remains Minister for Women and Equalities (appointed Sept 2019) , Gavin Williamson MP remains Secretary of State for Education(including children's social care (appointed July 2019), Matt Hancock MP remains Secretary of State for Health and Social Care including social care policy (appointed July 2018) and Priti Patel MP remains Secretary of State for the Home Department including security and terrorism (appointed July 2019).

Equality and Diversity (Covid-19 Specific)

- 5.3 The Faith and Communities Tactical Co-ordination Group (TCG), a sub-group of the Essex Strategic Coordination Group, was set up in response to the COVID-19 pandemic. The remit of the group was to provide information and advice to faith & community groups and also inform the development of future resilience/recovery/pandemic response work. Working groups have been set up focusing on Faith and Dementia and supporting the mental health and wellbeing of the LGBTQ+ community. The TCG brought together faith and community leaders to work with public services in a way that hadn't been seen before.
- 5.4 Local consultations took place with Colchester's BAME and Faith communities to really understand the direct impact of Covid-19. Feedback showed that residents from these communities did not have access to translated information and guidance, felt extremely isolated and unable to access some services. A paper was presented to Colchester Borough Council Leadership Team outlining the work of the Communities Team in response to the feedback we had received from these communities.

- 5.5 The Community Response Team was mobilised as part of the Council's response to Covid-19, to support communities and provide them with important information, help and support as the pandemic evolved. The team were able to identify our most at-risk communities and work with partners to ensure residents had the provisions they needed – these included members from our faith groups, BAME communities, older population, children and young families and many more. The team produced (and continues to produce) a Community Response Pack which includes translated information on face coverings and information on the test and trace service.

Equality and Diversity (Business as Usual)

- 5.6 The Government Equalities Office took the decision to suspend enforcement of the gender pay gap deadlines for this reporting year (2019/20). The decision meant there was no expectation on employers to report their data. Regardless of this, CBC submitted the pay gap stats to the Government's gender pay gap portal in March 2020 and published CBC's gender pay narrative 2020 on the Council's equality and diversity in employment webpage, showing our commitment to address any gender pay gap issues.

Safeguarding (COVID-19 specific)

- 5.7 The Community Safety Team were unable to deliver the Virtual Crew Project into all Colchester Primary Schools (year 6 pupils) in June 2020 as planned due the schools closure from 20th March 2020. Instead, the Team ensured that relevant / age appropriate advice and guidance on themes such as internet safety, gangs and knife crime, antisocial behaviour, drugs and alcohol and hate crime were included on the Safer Colchester Partnership website for the children to access from home should they wish. All primary schools in Colchester were notified that the information was available for home access.

- 5.8 During the pandemic, CBC Community Safety Team worked closely with partners to ensure that domestic abuse support services in Colchester remained available for people to access during the coronavirus outbreak. Engaging with Essex Police, Next Chapter, Colchester Borough Homes and ECC ensured that:

- Domestic abuse reports, response rates and emerging trends were monitored, allowing Police to direct resources appropriately
- Increased demand in refuge services was anticipated, additional safe accommodation was investigated and Next Chapter were able to access additional MHCLG funds for increased provision

Attending the the Essex Strategic Group (Domestic Abuse Response to Covid-19) meant a co-ordinated response across the County was followed and ECC are now implementing a centralised process for resourcing/procurement of additional accommodation to ensure equal access/cost for all districts/boroughs in Essex.

- 5.9 CBC Comms Team supported social media posts including those from Next Chapter, Women's Aid, SETDAB and the Essex Police Community Policing Team during the pandemic, to raise awareness of domestic abuse and how to seek help. CBC will continue to support posts/messages whenever possible and have also invited these organisations to highlight any specific messages to convey and any positive/success stories to share.
- 5.10 CBC's website has a Coronavirus section – this was updated with domestic abuse advice under <https://www.colchester.gov.uk/coronavirus/residents/domestic-abuse/>
- 5.11 Safer Colchester Partnership (SCP) website was also updated to reflect this guidance, with a specific section on Coronavirus and Domestic Abuse.
<https://www.safercolchester.co.uk/category/protect/>

- 5.12 Colchester Borough Homes (CBH) prioritised finding emergency accommodation for 57 'rough sleepers' over a short timeframe (as required by the Ministry for Local Government and Homelessness on 26 March). 'Direct lets' have been made to homeless customers (CBH has the lead within CBC for Homelessness).
- 5.13 Essex Youth Services delivered a number of online activities for young people during the COVID restrictions. A schedule was distributed to partners on a weekly basis.
- 5.14 Safeguarding Adult Leads (SAL) Network, led by Essex Safeguarding Adults Board (ESAB) met virtually on monthly basis to discuss partner agencies response to COVID-19 and safeguarding. Particular focus was given to some of the hidden harm issues such as Modern Slavery and Domestic Abuse.
- 5.15 Coronavirus Advice page added to the ESAB website: <https://www.essexsab.org.uk/about-esab/coronavirus-advice-page/> to provide latest advice and guidance.
- 5.16 Stay Safe at Home Campaign launched to help keep residents safe while they spend more time at home during the coronavirus pandemic. The Stay Safe at Home campaign focuses on five risks to people during this challenging time: domestic abuse, child abuse, accidental house fires, fraud and bogus callers. The campaign was developed by Essex Resilience Forum, which brings together public sector organisations across Essex including blue light responders, county and unitary authorities, district councils, the voluntary sector, health, highways, to form a coordinated countywide response in times of crisis. ESAB are supporting the campaign by sharing across social media; to follow or support the campaign, search for #ProtectingandServingEssex or #StaySafeAtHome or #StayHomeSaveLives on social media.
- 5.17 Essex Safeguarding Childrens Board (ESCB) adopted a Multi-Agency response to Covid-19: each agency spoke about the challenges within their organisations and how services have had to quickly adapt in order to continue to safeguard children and young people during the pandemic. ESCB launched a dedicated COVID-19 section on the website outlining general advice, temporary changes to services and information for families: <https://www.escb.co.uk/safeguarding-children-during-coronavirus-covid-19/>. Statutory partners across Southend, Essex and Thurrock have weekly online meetings, led by ESCB, to monitor issues around Covid-19 as they arise.

Safeguarding (Business as Usual)

- 5.18 SET (Southend, Essex & Thurrock) Exploitation Strategy (2019-2024) was published November 2019. Document can be found here: [SET Exploitation Strategy 2019-2024](#)
- 5.19 SET (Southend, Essex & Thurrock) Missing People Strategy (2019-2024) was published November 2019. Document can be found here: [SET Missing People Strategy 2019-2024](#)
- 5.20 ESCB operates in line with the requirements of the statutory guidance 'Working Together to Safeguard Children 2018'. The implementation of the new Multi-Agency Safeguarding Arrangements (MASA) in September 2019 led to ESCB will be retaining its name, brand and logo. The seven local safeguarding partners jointly leading the Partnership Arrangements are: Essex County Council, Essex Police and Five Clinical Commissioning Groups. Further information can be found here: [Essex MASA Plan 20-21](#)
- 5.21 The Southend, Essex and Thurrock Safeguarding Adult concern form (SET SAF), used to begin the adult safeguarding process, was updated in June 2020. The latest version can be found here: <https://www.essexsab.org.uk/professionals/reporting-concerns/>

- 5.22 Changes to the Request for Support (RFS) online referral form, used to begin the child safeguarding process, came into effect from August 2020. The latest version of form can be found here: <https://www.essexeffectivesupport.org.uk/request-support/>
- 5.23 National Safeguarding Adults Week (NSAW) took place 18-24 November 2019. The NSAW campaign was a great success, seeing a social media reach of over 41k and support from a variety of organisations and partners including other Safeguarding Adults Boards. Over the seven days, seven different safeguarding issues were explored with seven one minute vlogs, based on true stories of real people from Southend, Essex and Thurrock. Further information on the 2019 NSAW can be found here: <https://www.essexsab.org.uk/about-esab/national-safeguarding-adults-week-2019/> NSAW 2020 will take place 16-22 November and will focus on financial abuse.
- 5.24 The Government launched a new online portal in January 2020 to strengthen support to charities handling safeguarding concerns or allegations. To access the portal, please visit <https://safeguarding.culture.gov.uk/>
- 5.25 The Local Government Association and the Association of Directors of Adult Social Service (ADASS) published Adult Safeguarding and Homelessness - a briefing on positive practice, in March 2020. The briefing can be found here: [Adult Safeguarding & Homelessness Briefing](#) CBH lead on the homelessness agenda for CBC.
- 5.26 David Archibald was appointed as Independent Chair of the Essex Safeguarding Children Board (ESCB) in 2019.
- 5.27 Deborah Stuart-Angus was appointed as Independent Chair of Essex Safeguarding Adults Board (ESAB) in 2019.

6. Meeting the Duties

Overall Arrangements at Colchester Borough Council

- 6.1 Equality and Safeguarding are both integrated into the day-to-day operations of the Council. However, arrangements are also in place to ensure strategic focus and co-ordination. The Assistant Director for Communities provides the strategic lead, with support from the lead Officers for Equality & Diversity, and Safeguarding.
- 6.2 The relevant Cabinet Portfolio is Cllr Mike Lilley (Communities, Wellbeing and Public Safety).

Equality and Diversity

- 6.3 In the area of Equality and Diversity, the Diversity Steering Group (DSG) provides an active forum for 'advancing equality' for both customers and staff. Its members are service 'representatives' who play a key role in reviewing progress and disseminating best practice.
- 6.4 The Equality Act 2010 imposed a Public Sector Equality Duty (PSED) upon local authorities including district councils. Under its 'general duty', the Council must "integrate consideration of the advancement of equality" into its "day-to-day business, and across all functions". Councillors and staff must have "due regard" to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act

- advance equality of opportunity between people who share a ‘protected characteristic’ and those who do not
 - foster good relations between people who share a ‘protected characteristic’ and those who do not
- 6.5 The ‘protected characteristics’ are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. The duty also covers marriage and civil partnership, but not for all aspects of the duty.
- 6.6 The Equality and Human Rights Commission’s Technical Guidance to the PSED remains the best guide to the practical operation of the PSED. In addition, the Council takes due account of the Government’s Review of the PSED which endorsed the so-called “Brown Principles”. These confirmed that the ‘due regard’ duty must be fulfilled before and at the time that a policy is being considered; it must be exercised in substance, with rigour and with an open mind; and that it is non delegable.
- 6.7 The PSED ‘specific duties’ require us to publish information to demonstrate that we are meeting both the ‘general duty’, and one or more published equality objectives. During the period 2019-20 we have continued to meet both requirements. Information published on the Council website includes:
- Equality Impact Assessments
 - The Council’s Strategic Plan 2018-21 and its Year End Performance Report (including its Strategic Plan Action Plan).
 - The Council’s website pages on Equality and Diversity
 - The Council’s Equality Information section contains all required information
- 6.8 The Council remains committed to the use of the Equality Impact Assessment process. Despite not being a legal requirement, these remain a vital framework through which the Council can continue to identify, evaluate, and mitigate against negative impacts upon the ‘protected characteristics. It allows us to make the right judgements based on sound information and data, in an open and transparent way.
- 6.9 The Council works with a host of agencies and organisations in order to meet its duties and advance equality more generally.
- 6.10 Accessibility regulations for websites came into force for public sector bodies on 23rd September 2018 – stating you must make your website more accessible by making it “perceivable, operable, understandable and robust.” There is also a need to update an accessibility statement on our website. The accessibility regulations build on the existing obligations for people who have a disability under the Equality Act 2010.
- 6.11 CBC’s online team have been working hard to ensure the CBC website meets the accessibility standards as stated in the accessibility regulations. The team have reviewed our website against the new accessibility criteria and made any necessary reasonable adjustments.
- 6.12 Colchester Borough Council's website is Browse Aloud enabled which means that you can have information on the site read aloud to you for free on a Smartphone, Tablet, PC or Mac. Browse Aloud is a suite of products that provides website reading support, highlighting each word as it is spoken in a high quality, human-sounding voice.

Safeguarding

- 6.13 In the area of safeguarding, Designated Safeguarding Officers, who have an enhanced level of training to provide expertise and assistance to officers, attend quarterly workshops (currently virtual) led by the Community Safety & Safeguarding Coordinator and Community Safety Team. The workshops review legislative changes, safeguarding referrals, training requirements for all staff and improve processes. Following a review of the DSO role, in 2020, 5 new DSO's have come on board and will be receiving their Level 3 Training in Sept/Oct 2020 to enable them to carry out the role effectively.
- 6.14 The Council continues to raise safeguarding concerns with Essex County Council via its Request for Support Portal (in regard to a child) and the SETSAF form (in regard to an adult). Records of referrals made, and any feedback received, are retained in a secure area of the Council network and are reviewed at quarterly Designated Officer Workshop meetings. Both the online reporting form for child referrals and the SETSAF form for adult referrals have been updated in 2020.
- 6.15 In 2019 (1 January – 31 December), 47 referrals were made to Essex County Council. These referrals related to 39 adults (23 females and 16 males), who were referred to Adult Social Care and 11 children (3 females, 2 males and 6 unknown) who were referred to Children and Families Hub.

For **2020** (1 January – 31 August) 32 referrals (for 35 individuals) have been made to Essex County Council. These referrals related to 29 adults (16 females and 13 males) who were referred to Adult Social Care and 6 children (4 female, 1 male and 1 unknown gender) were referred to Children and Families Hub.

Of the adults, the main type of recorded (or suspected) abuse was self-neglect at 14 reports, followed by neglect (6), domestic abuse (4), psychological abuse (3), physical abuse (2) and financial abuse (1). There were a number of cases (13) where type of abuse was recorded as 'not determined' due to the referring officer being unsure of the main type of abuse. Suicidal Ideation was mentioned in 11 cases.

Of the children, neglect was the only type of recorded (or suspected) abuse at 5 reports, with not determined also recorded for 2 children.

Further training will be undertaken with the Designated Safeguarding Officers in order to increase awareness of types of abuse. Information on types of abuse is also included in the level 1 and 2 Safeguarding training, and in the CBC Safeguarding Policy.

- 6.16 For the period from the beginning of September 2019 to the end of August 2020, Colchester Borough Homes has made a total of 73 safeguarding referrals for 54 adults and 19 children. Child referrals include statutory 'risk of homelessness' referrals. Of the adult referrals, the main type of recorded abuse was: self-neglect (in 63% of cases); financial/ material abuse (17%); physical abuse (7%); psychological abuse (6%); domestic abuse (4%); sexual abuse (2%); and neglect (2%).
- 6.17 The Safeguarding Level 1 eLearning training package was reviewed and updated in April 2020 and is still undergoing some minor changes. This eLearning package is a mandatory requirement for all CBC staff and members, and completion is monitored via the HR Team. Approximately 184 people have completed the eLearning as a refresher up to 31st August 2020. Technical Issues identified by some officers completing the course (due to the current platform hosting the package) has led to a suggestion of moving to supporting an eLearning platform in-house. Discussions with HR and Community Safety & Safeguarding Team will be taking place October 2020 to agree a plan of action.

Further training delivered/available in 2019/2020 includes:

- Impact of Sexual Violence Awareness and Hate Crime Awareness was delivered via the Member Development Sessions in September 2019 and October 2019
- Modern Slavery Awareness Sessions were organised in partnership with CBH and made available to key CBC staff, in November 2019, delivered by Chief Inspector Rob Huddleston (District Commander for Colchester)
- Suicide Awareness basic eLearning package (via Zero Suicide Alliance) made available for staff to complete
- Domestic Abuse eLearning and workshop sessions (via Alpha Vesta) made available for staff to complete.

- 6.18 Partnership working is key to meeting the Council's safeguarding duties. The Safer Colchester Partnership (SCP) underwent some changes in late 2019/early 2020 and is now led by One Colchester Strategic Board, which consists of Chief Officers representing local statutory partners and non-statutory partners and organisations. It aims to achieve sustainable solutions following the identification of local needs and priorities. It does this by delivering initiatives and engaging with local communities through two Operational groups; these being the Community Safety Delivery Board and the One Colchester Delivery Board.
- 6.19 Colchester Borough Council engages positively with the relevant 'Stay Safe' group which comes under the ESCB's governance. This group helps to put into practice effective partnership working to keep children safe from harm including abuse. The Council also attends local 'MACE 2' (Missing and Child Exploitation) meetings which facilitate joint approaches and key information sharing to help protect children from exploitation. In addition, from 2020, the Council attends the Multi Agency Disruption Panel (formally the Organised Crime Group Disruption Panel) organised by Essex Police, in which disruption strategies and action planning for those individuals at risk of exploitation are discussed.
- 6.20 The Council works closely with both the Essex Safeguarding Adults Board (ESAB) and the Essex Safeguarding Children Board (ESCB). Support from, and representation on, both the ESCB and ESAB for District Councils is by way of Board Membership. Colchester Borough Council Executive Director Pam Donnelly sits on the ESAB and feeds back to the Chief Executives Group. The Council is also represented at the Adult Safeguarding Leads meetings by the Community Safety & Safeguarding Coordinator.
- 6.21 Between September 2019 and January 2020, ESAB conducted a staff survey (to replace the existing Section 11 safeguarding audit) where staff from a number of partner agencies within Essex were invited to answer questions about safeguarding adults. In total 2,413 people across Essex completed the survey, which identified a lot of good practice as well as identifying areas that the Board could focus on. 946 people completed the survey across City, District and Borough Councils.

Locally, for CBC, a link to the survey was sent out via internal CBC comms, via Managers Network and DSO's which led to 141 people within CBC completing the survey (16%). A number of recommendations were made by ESAB for Local Authorities and CBC are ensuring all of the recommendations are being considered and actioned as part of a Safeguarding review being undertaken by the Community Safety and Safeguarding Team – further details below:

The recommendations included updating of in-house documents and webpages (CBC documents have been updated and both CBC and SCP websites are being updated), safeguarding leads information circulated (internal comms messages plus clear information now included in CBC documents), increased awareness around reporting to the police (information within CBC documents updated, as well as internal training), gaining consent/talking to the adult (will be included in updated level 1 training), ensuring

sufficient safeguarding training is available (level 1 being reviewed and a new level 2 under development), information sharing is clearly stated within organisational policy/safeguarding training (safeguarding policy and training updated) and safeguarding becomes a standard agenda item in team meetings (managers network, internal comms and designated safeguarding officers to help spread this message).

- 6.22 Modern slavery encompasses sexual exploitation, labour exploitation, forced criminal exploitation and domestic servitude. To meet its legal duties under Section 43 of the Modern Slavery Act 2015 the Council published on its website its fifth Modern Slavery Transparency Statement (and action plan) in September 2020. A workshop to deliver awareness around Modern Slavery supply chain implications will be developed and available to all Contract Managers in the New Year.
- 6.23 Sec 26 of the Counter Terrorism and Security Act 2015 placed a new duty upon local authorities to have “due regard to the need to prevent people from being drawn into terrorism.” To assist implementation of the duty in section 26 of the Counter-Terrorism and Security Act 2015, a Home Office Prevent eLearning training package is available. This is introductory training and provides a foundation on which to develop further knowledge around the risks of radicalisation and the roles involved in supporting those at risk. This training package will be available to all staff and Members from September 2020 for mandatory completion alongside the Safeguarding Level 1 eLearning. This Prevent training package is also mandatory for CBH staff.

7. Going Forward

Equality & Diversity

- 7.1 CBC will create a diverse and inclusive workplace where people are supported to reach their potential. To do this, we will refresh our diversity training, introduce staff focus groups to explore and identify how we can promote inclusivity, apply data to understand our workforce and put in place an action plan to address areas underrepresented.
- 7.2 The Council will introduce mandatory Equality & Diversity training for all staff and Councillors every 3 years, starting January 2021.
- 7.3 Equality, Diversity & Inclusion issues experienced by both staff and residents will be heard and discussed at the Diversity Steering Group quarterly meetings.
- 7.4 The Community Enabling Team will continue to work with and support all community groups across the borough, including those who share protected characteristics and those who do not.
- 7.5 CBC will continue to support National and Local Awareness campaigns to promote Equality, Diversity and Inclusion across the borough.
- 7.6 The Equality & Diversity Officer will continue to attend meetings such as the Essex Equalities Network, Essex Faith Covenant, Faith & Communities Tactical Co-ordination group meetings.
- 7.7 The new Vision, Values and People Strategy shows how we will recruit, retain and develop staff to help support the delivery of our overall strategic priorities. The Inclusive values this strategy are Ambitious, Agile, Valued and Inclusive.
- 7.8 CBC will assess existing policies, practices and procedures to ensure they are inclusive and sensitive to all protected characteristics.

- 7.9 CBC are developing an Asset Based Community Development approach to community enabling which will give us a better understanding of our communities, help to reduce inequalities and improve the health and wellbeing of residents. ABCD training will be delivered to CBC staff and members.

Safeguarding

- 7.10 The Council will continue to raise awareness for staff (and highlight its procedures) on key issues including Prevent, modern slavery, CSE (Child Sexual Exploitation), domestic abuse, criminal exploitation (including cuckooing) and hate crime. To do this effectively, the Council will increase its commitment to online training, including the launch of a new Safeguarding Level 2 eLearning package (for those frontline staff who may come into contact with a vulnerable adult or child at risk), based on the original Observers scheme. This new Level 2 training will form part of a new CBC Safeguarding Training Plan (see 7.10 below).
- 7.10 CBC Community Safety & Safeguarding Team are developing a new Safeguarding Training Plan for all staff, volunteers and members with structured categories into Levels 1, 2, 3 and also a section containing information and training packages that anyone can access to further their knowledge. The Training Plan will be launched in the New Year.
- 7.11 The Level 2 training will also be available, as a revised version called Observers, in the New Year for contractors to utilise at tender stage. External partner agencies will also be able to utilise Observers. This will be accessible via the Safer Colchester Partnership website.
- 7.12 Projects and initiatives to raise awareness in the community of some of the hidden harms will also be delivered or commissioned by the Community Safety Team over the coming year. Projects will include Stop It Spot It Scheme (in partnership with Essex Police) to raise awareness of child exploitation with local businesses including hotels, restaurants and further hate crime awareness sessions to encourage recruitment of Hate Crime Ambassadors within a community.

Hate Crime Awareness/Ambassador sessions will also be offered to Members via the Member Development Sessions on 12th and 18th November 2020.

- 7.13 CBC will continue to support National and Local Awareness campaigns such as Domestic Abuse Awareness week, Hate Crime Awareness Week, International Anti-Slavery Day, Modern Slavery Action weeks, Online Exploitation Awareness, Stay Safe At Home and Safeguarding Adults week.
- 7.14 CBC Licensing are in the process of developing an online programme of Safeguarding Training for Taxi Drivers to follow the successful sessions delivered in 2019. Safeguarding training for new licensed drivers will be mandatory going forward.
- 7.15 As Community Safety takes on the operational lead on safeguarding, the Council is in a good position to continue to deepen partnership working with agencies and voluntary organisations, including through the Safer Colchester Partnership and the wider One Colchester Partnership in order to deliver for residents.

8. Strategic Plan References

- 8.1 The Council's Strategic Plan is a key mechanism through which the Council monitors how it is meeting its equality and safeguarding responsibilities. In particular, the Strategic Plan

2018-21 contained the Council's current 'equality objective' of 'Making Colchester an even better place to live and supporting those who need most help' which was an integral part of that Plan under its Wellbeing theme. The priorities which particularly help supported the Council's Equality Objective are: • Work with Essex Police and partners in the Safer Colchester Partnership to make Colchester an even safer place • Targeted support to the most disadvantaged residents and communities.

- 8.2 Looking ahead, the 2020-21 equality and safeguarding report will reflect the themes, priorities and goals of the Strategic Plan 2020-23 which was approved by full Council in October 2020.

9. Consultation

- 9.1 Throughout the Covid19 pandemic, the Community Response Team consulted with and supported many underrepresented groups to understand their need and the impacts and risks they faced. Regular engagement and consultation with these groups made people feel listened to, supported and more valued.

10. Publicity Considerations

- 10.1 The Council's approach to Equality and Safeguarding has the potential to affect everyone who lives, works or visits the borough. It can play a key role in the daily lives of individuals and communities by helping to safeguard vulnerable groups from harm, as well as tackling prejudice and advancing equality of opportunity.
- 10.2 The Equality Information section on the Council's website continues to provide updated information as required by legislation and guidance, along with related content of use or interest to customers, staff and councillors. The Council's website also includes a section dedicated to Safeguarding children and 'adults with needs for care and support' which contains key information for residents along with links for further information.

11. Financial Implications

- 11.1 It is important to understand that our obligation to have "due regard" to the three aims of the 'general duty' does not mean that decisions which have a disproportionate impact upon one or more 'protected characteristics' cannot be taken. The Council must nevertheless always seek to remove or reduce negative impacts.
- 11.2 The Council's approach must continue to be proportionate, with key decisions being given due priority. Equality Impact Assessments must remain an integral part of the decision-making process when addressing changes to policies and practices.

12. Equality, Diversity and Human Rights Implications

- 12.1 This report is an annual update about Equality, Diversity and Safeguarding, which helps the Council to ensure it meets its duty and protect vulnerable groups.

13. Community Safety and Health and Safety Implications

- 13.1 The Council's approach to Equality and Safeguarding involves working closely with partners and communities. The Safer Colchester Partnership plays a vital role in helping the Council to meet its legal duties around safeguarding.

- 13.2 By meeting its Public Sector Equality Duty, the Council will help to ensure that employees do not suffer discrimination, harassment or victimisation. This will in turn create a safer working environment, and one which is consistent with the Council's Health and Safety policies.

14. Risk Management Implications

- 14.1 As an employer and provider of public services, the Council could face legal challenges from individuals or groups who have been unlawfully discriminated against, however unintended. Legal cases brought on grounds of discrimination do not have upper financial limits like those brought through employment tribunals. The Council must meet its responsibilities to ensure it does not discriminate, and this will also help to avoid the potential for significant financial claims.
- 14.2 The Council could suffer significant reputational damage should its staff or councillors fail to comply with their Safeguarding responsibilities. This paper details the Council's strategic and operational approach in this area.

Key initiatives and provisions

- The Council distributed £221,000 of Voluntary Welfare Funding to ‘not for profit’ organisations to help the Council meet its equality and safeguarding objectives. In 2019-20, the following organisations received funding:

Age Concern Colchester	15,000
CARA	20,000
Open Road	10,964
Youth Enquiry Service	20,000
Colchester Citizens Advice Bureau	30,000
Colchester Gateway	20,000
Open Door	10,000
Outhouse East	22,834
Colchester CAP Debt Centre	9,237.58
Alfie James Productions	3,250
Refugee Action Colchester	8,000
Dance Network Association	20,000
Hi Tension Trampoline Club	1,714.66
Community360	30,000

- Colchester Borough Council Covid website designed to support residents throughout the pandemic with additional information for our most at risk communities
<https://www.colchester.gov.uk/coronavirus/communities/support-for-bame-communities/>
- The Community Enabling Team has worked in partnership with Dementia Friends and the Alzheimer Society in order to raise awareness and understanding of Dementia across the Council and our communities. An additional 14 members of staff have completed their Dementia Friends training and 21 members of staff attended the Virtual Dementia Tour training this year. The lead Community Enabling Officer for Dementia completed her Dementia Champions training and is now able to provide Dementia Friends training to staff, members, partners and others.
- Colchester Borough Council remains a key member of the Dementia Action Alliance and provides representation at regular meetings. The Council is heavily involved in the Place Based Social Action project to make Colchester a Dementia Friendly town, which is led by Community360.
- 300 activity packs and 300 library packs were distributed to young people during the summer holidays, to encourage physical activity amongst some of our BAME families and community groups.
- Weekly food parcels were delivered to 173 families during the summer holidays including those families supported by Colchester Borough Homes, the Boaz Project, Refugee Action Colchester, Essex Integrations and the Essex Child & Family Wellbeing Service.
- 250 activity packs were created for older people, providing them with information, help and advice on how to be active at home and stay well.
- Colchester Castle was lit up purple in support of the Black Lives Matter movement.

- Black History month event at Hollytrees Museum on 19 October welcomed around 50 individuals, many of whom had never been to the museum before. There were local artists and stalls run by people from the African and Caribbean community, as well as objects from Colchester Museums collection for people to look at relating to Black History.
- Colchester Museums has engaged closely with Colchester's LGBTQ+ community and many relationships have been developed. In February 2020 as part of LGBT month, tours of Colchester Castle were offered that showcased hidden LGBT histories. These events were well received, with further demand for more.
- Colchester Museums have been working with Outhouse Youth Project, a group of young people from the LGBTQ+ community in Colchester. The intention is to host an intervention at Hollytrees Museum, where the group can share their stories and experiences within the galleries. So far they have designed a dolls house to reflect the dolls houses currently on display in the museum.
- Colchester Museums contributed to the development of an LGBT walk of the town created by artist Ian Giles as part of the New Geographies Project. Working with artist Ian Giles, the museums consulted on historical sites and stories in the town that relate to LGBT history that could be included on the walk. As a follow up from this, a display was produced at Firstsite and the museums ran a workshop on 21 September to show visitors how objects can reflect a person's identity.
- Snapping the stiletto, a touring exhibition about the hidden stories of Essex Women in museum collections, ran at Hollytrees Museum from 9 November to 18 January. As well as showcasing some of the research that has been going on across the county into women's history, the exhibition showcased some of Colchester Museums' collections that highlight the important contributions women have made to Colchester since the Representation of the People's Act in 1918. Based around an anti-suffrage handkerchief in the museums' collection, local women shared their stories and an object they felt summed up their roles. The aim was to highlight how far we have come in relation to women's rights and how much further we have to go. Visitors were encouraged to share their experiences of gender discrimination on our engagement wall.
- In January 2020, staff in the CBC Customer Support Team received Hate Crime training to become Hate Crime Ambassadors, acting as a point of contact for anyone who is experiencing hate crime.
- 2019-20 has been a successful year for the Council in terms of funding acquired for a variety of services. There have been successful bids to the CCG, North East Essex Alliance, Essex County Council, Active Essex and Sport England, to explore ways for communities to become more active and live healthier lives. Programmes developed within the Colchester Local Delivery Pilot (LDP), will promote increased levels of activity amongst communities, in particular those living in circumstances of deprivation.
- Poor Air Quality disproportionality affects the elderly, the young and those with existing respiratory conditions. To support improvements in the boroughs air quality, temporary signage will be installed for up to 18 months (subject to planning permission) on Brook Street and East Street. The signage aims to increase the number of drivers who 'switch off' their engines whilst stationary. In October 2020, the Council will launch a Defra funded behaviour change campaign, which will also encourage residents to switch off their engines when stationary. All resources will be co-created and tested within the local community.

- The Environmental Protection Team continues to work in partnership with the Essex Countywide Travellers Unit, to help ensure equal and fair treatment for people within Roma Gypsy and Irish Traveller communities.
- Disabled Facilities Grants - Colchester Borough Council provides Disabled Facilities Grants in order to help sustain independent living. In addition, we administer Disabled Facilities Assistance Loans to assist households with works that do not fall within the scope of the mandatory Grant
- The Council recognises that there are strong links between improving Public Health and meeting its objectives around Equality and Diversity, and Safeguarding. In order to promote supportive conversations with residents and customers about behaviour change, thereby increasing opportunities to promote health and reduce health inequalities.
- Colchester Leisure World offers a wide range of activities and services to support many protected groups.
 - Discounted memberships for people on low income/ government support status, including accessibility users.
 - Swimming for adults and juniors with physical / learning disabilities, women only swimming sessions (BAME women in particular), learn to swim programme for over 1000 children.
 - Numerous sessions for adults/ children with a physical/ mental disability focusing on physical exercise, fun and inclusivity. (including trampolining and sport play).
 - Racquetteer Club – Badminton players from our Asian Indian/ Bangladeshi communities. Up to 40+ strong membership base.
 - Walking Indoor Football – ACE – private hire. Physical/ mental disabilities.
 - Sport for Confidence. providing inclusive sporting opportunities for people who face barriers to participation, including those with learning disabilities, mental health issues, dementia, autism, physical impairment or disability, homelessness, and many other complex health needs.
 - Activa Gym: - Wheelchair user friendly access/ equipment
 - GP Referral program (LEAP). Physical activity sessions catering for a wider range of patients with complex medical conditions. Activities includes the use of gym/ studio classes (Cardiac/ Vascular Rehab, Osteoarthritic, Back Rehabilitation and Gentle Water Workout).
 - Dementia support sessions: weekly sessions available to anyone living with or have family members directly affected by Dementia.
- During 2019-20, Language Line Solutions Ltd continued to provide telephone interpreting and translation services to Council staff, with most enquiries coming from Customer Services. Language Line help with core language services, telephone translation and provide alternative format translation such as braille, easy read and large print.
- 2020 saw the adoption of version 2 of the CBC Suicide Protocol (on responding to threats or ideas of suicide or self-harm) which includes detailed guidance and procedures as well as contact details of dedicated organisations and relevant agencies. In addition to the Protocol, summary guidance documents on how to respond to threats of suicide and procedure to follow were also made available to staff and members via the CBC intranet.
- 2020 saw the adoption of version 7 of the CBC Safeguarding Policy; a comprehensive guide including information on a number of areas such as roles and responsibilities, recognising and responding to concerns, identifying types of abuse, where to seek help, training, legislation, and many more. In addition to the Policy, summary guidance documents on how to recognise potential abuse, raise concerns and make a referral were also made available to staff and members via the CBC intranet.

- The CBH Safeguarding Policy has been updated and is consistent with 2020 SET (Southend Essex Thurrock) Safeguarding Adults Guidelines. Internal procedures are no longer included within the policy to be consistent with CBH standard approach, and to avoid the need for frequent updates.
- The Community Safety Team were successful in being awarded, as Lead Local Authority, a bid of over £500,000 from MHCLG for delivery of the 'Together We Can' project; a 12 month project to support a recovery refuge (for women with active substance misuse issues), community resettlement programme (supporting women to establish & maintain safe accommodation) and provide specialist support for children and young people affected by domestic abuse (particularly those in families who have fled domestic abuse or remain in the home after perpetrator has left).
- Colchester Borough Council remains a key member of the Keep Safe Scheme, designed to provide a place of safety such a shop, library, fire station, restaurant or CBC building for vulnerable members of the community to visit for help should they be feeling unsafe and need to contact a family member or friend for support.
- Colchester Borough Council remains a key member of the J9 Scheme, designed to provide a place of safety such a shop, library, fire station, restaurant or CBC building for a victim of domestic abuse to visit should they be feeling at risk or in need of help or support. 50 Safeguarding Champions within Colchester General Hospital received the training in 2020, in conjunction with Safer Places.

24 November 2020

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Review of the Council's Ethical Governance Policies		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This report requests the Committee to review the Council's updated Ethical Governance policies. These are the key policies which set out the standards of conduct and integrity that the Council expects of councillors, staff, partners, suppliers and customers when conducting Council business. They contain procedures for dealing with breaches of the policies and processes to be followed.
- 1.2 The report also requests the Committee to recommend to Full Council to include the updated policies in the Policy Framework which comprises all of the Authority's key policies.

2. Recommended Decision

- 2.1 To recommend to Full Council that it adopts the statement of intent in relation to ethical governance.
- 2.2 To review the following revised policies:
 - Anti-Fraud and Corruption
 - Whistleblowing
 - Anti-Money Laundering
 - Covert Surveillance
 - Information Security
 - Data Protection
 - Acceptable Use
 - Data Retention
 - Income and Debt Management

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

3. Background

- 3.1 The Council is committed to maintaining the highest standards of governance including the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly, openly and accountably in order to protect public safety and public money.
- 3.2 A varied range of policies and procedures form the Corporate Governance framework and a selection of these relate to Ethical Governance - those specifically regarding conduct and integrity.

- 3.3 The Ethical Governance policies set out the standards of conduct and integrity that it expects from staff, elected members, suppliers, partners, volunteers and the public. Breaches of the policies will be pursued, and procedures have been introduced to enable any person to raise genuine concerns they may have about the conduct of anybody acting for or on behalf of the Council.
- 3.4 At its meeting on 6 December 2018 Full Council adopted a statement of intent in relation to both Ethical and Corporate Governance which gave a high organisational commitment to zero tolerance of fraud, corruption and bribery. Accordingly, it is now appropriate to refresh the statement of intent which is attached at Appendix 1. The Committee is recommended to refer this to Full Council for adoption.

4. Review of Ethical Governance Policies

- 4.1 The Anti-Fraud and Corruption, Whistleblowing, Anti-Money Laundering, Information Security, Data Protection, Covert Surveillance and Income and Debt policies were last reviewed by this Committee at its meeting on 26 November 2019. The Ethical Governance policies were subsequently adopted as part of the Council's Policy Framework by Full Council.

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

Policy	No. of times invoked during 2017/18	No. of times invoked during 2018/19	No. of times invoked during 2019/20	Whether procedures effective
Anti-Fraud and Corruption	None	None	None	n/a
Whistleblowing	None	1	None	n/a
Anti-Money Laundering	None	None	None	n/a
Covert Surveillance	None	None	None	n/a
Information Security	None	None	None	n/a
Data Protection	None	None	None	n/a

The Anti-Fraud and Corruption, Whistleblowing, Anti-Money Laundering, Data Protection, Information Security, Acceptable Use and Data Retention policies have all been reviewed to ensure that they remain fit for purpose and no changes are proposed to these policies which are appended to this report.

- 4.2 The Monitoring Officer writes an annually to both Members and Officers reminding them of their obligations regarding the Anti-Fraud and Corruption and Whistleblowing policies. Councillors have recently received updated data protection training from the Council's IT team.
- 4.3 In March 2020 the Investigatory Powers Commissioner's Office undertook its periodic inspection of the Council's compliance with its obligations under the Regulation of Investigatory Powers Act 2000. This involved a review of the Council's Covert Surveillance Policy and associated procedures. The inspection found that the Council's policy was sound but made some recommendations how the policy could be further improved. All of the recommendations have been included in the updated policy. The recommendations focused on updating legislative references and further guidance regarding the review and destruction of surveillance material. The Investigatory Powers Commissioners office noted that the Council had not used the powers since the date of the last inspection which was November 2016.

- 4.6 The Income & Debt Management Policy has been reviewed and there are no proposed changes for this year. The processes are still relevant and meet legislative requirements, whilst supporting strong collection rates. During the last full financial year, the Council achieved high collection rates for Council Tax and Business Rates, achieving 97.80% collection of Council Tax, with an increase in tax base of £6.6million and achieving collection of 98.71% for Business Rates.
- 4.7 The Council continues to improve processes to support residents and businesses to pay on time, including the use of text messages, email and more complex enforcement where necessary.

5. Strategic Plan References

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

6. Publicity Considerations

- 6.1 The Council's ethical governance policies will be published on the Council's website.

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

- 7.1 None.

Ethical Governance Statement 2020/21

Colchester Borough Council will not tolerate breaches of its ethical governance policies.

The Council is committed to maintaining the highest standards of governance including the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly, openly and accountably so as to protect public safety and public money.

The Council expects the highest standards of conduct and integrity from all that have dealings with it including staff, elected members, suppliers, partners, volunteers and the public. Therefore, policies have been put in place to outline the standards required and procedures have been introduced to enable any person to raise genuine concerns they may have about the conduct of anybody acting for or on behalf of the Council.

The Ethical Governance policies form part of the Council's overall Corporate Governance framework and details of all the policies have been published on the Council's website at www.colchester.gov.uk.

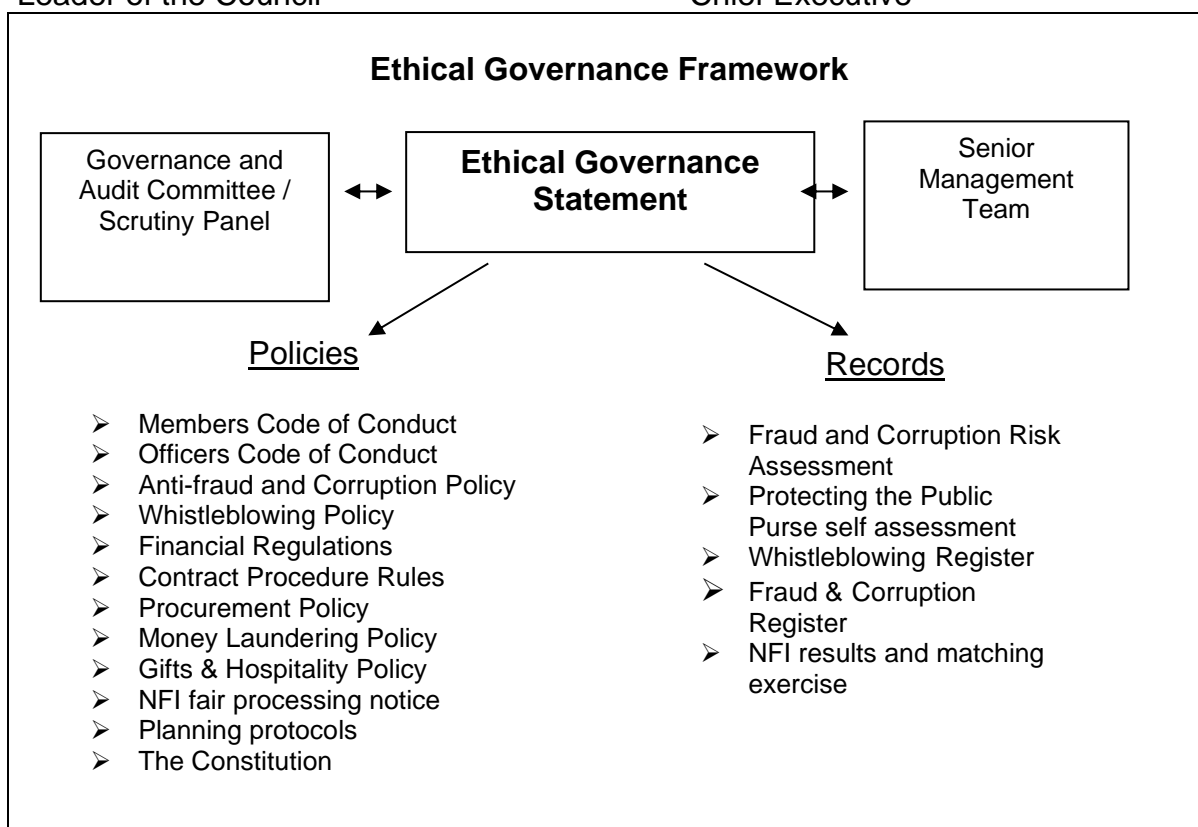
We will take all reasonable steps to ensure that concerns are investigated, and appropriate action taken where necessary. There will be no distinction made in investigation between cases that generate financial benefits and those that do not.



Mark Cory
Leader of the Council



Adrian Pritchard
Chief Executive





Income & Debt Management Policy

Customer Business

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1. Introduction

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

2 Policy Aims

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

3. Billing and Invoicing Arrangements

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

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

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

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

4. Methods of payment

4.1 The Council offers the following payment methods:

- Direct debit
- BACS
- Online payments
- Automated telephone line payments

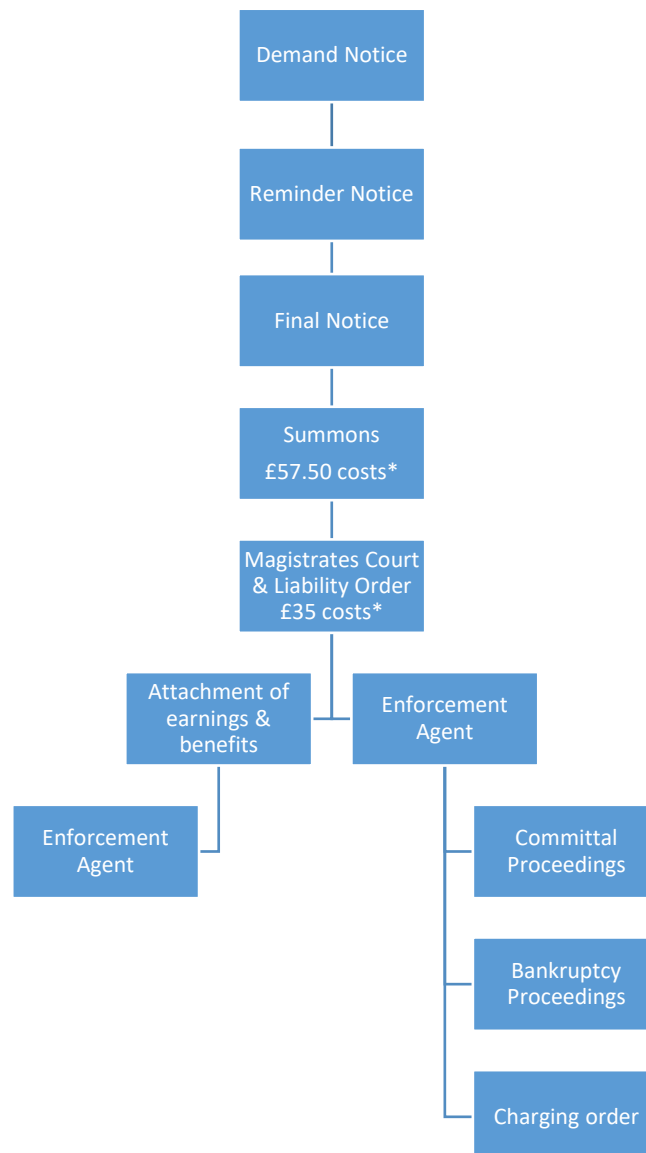
4.3 Services should remove any payment options from promotional materials, bills or other correspondence other than the preferred payment methods. For recurring or regular charges Direct Debit must be promoted as the payment option. For one off charges an upfront debit card internet payment should be promoted followed by other self-serve options.

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

5. Recovery of unpaid debts

- 5.1 For a variety of reasons, revenue due to the Council will not be paid on time. The Corporate Debt Team and individual services must commence recovery action as soon as possible to maximise the probability of debt recovery.
- 5.2 Reminders will use nudge and persuasive techniques that are most likely to attract prompt payment.

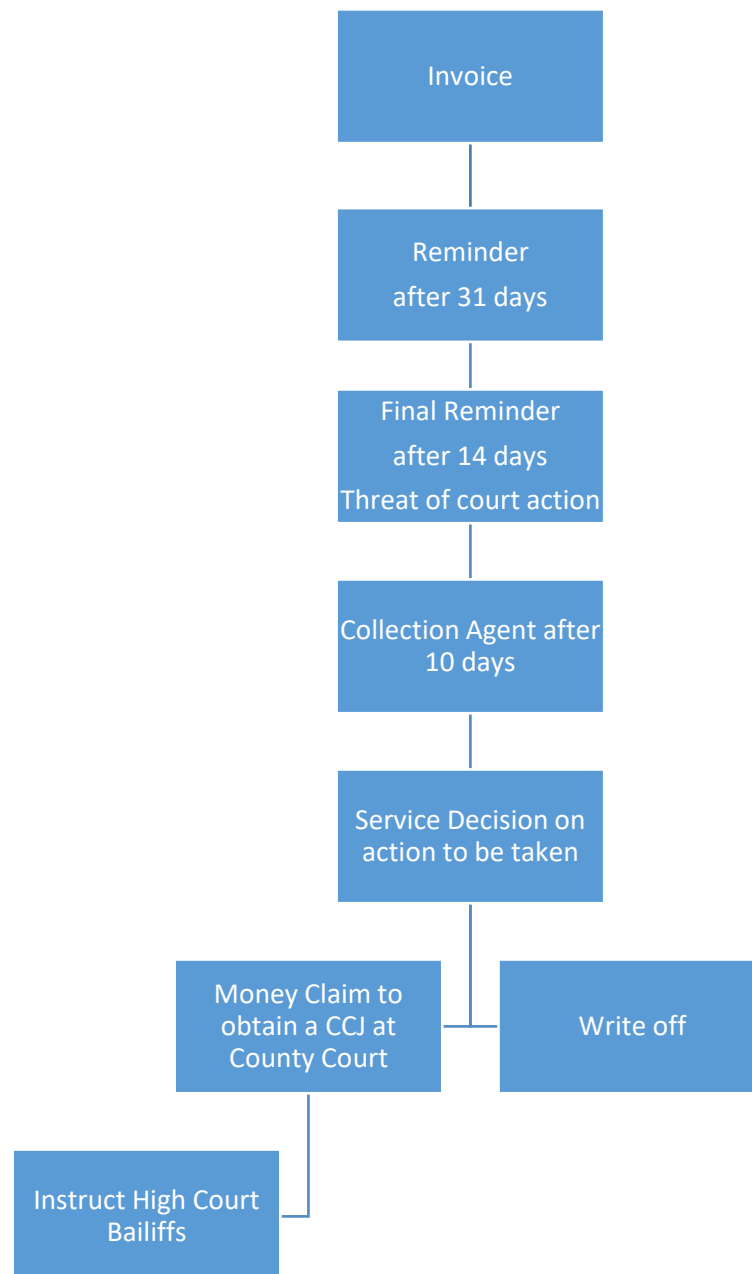
6.1 Council Tax and Business Rates Process



* Please note that Summons and Liability Order costs are subject to review prior to April 2019. The Council calculates the actual cost of issuing the documents and this recovered as part of the debt. The Council will keep costs to a minimum where possible.

7. Sundry Debt Processes

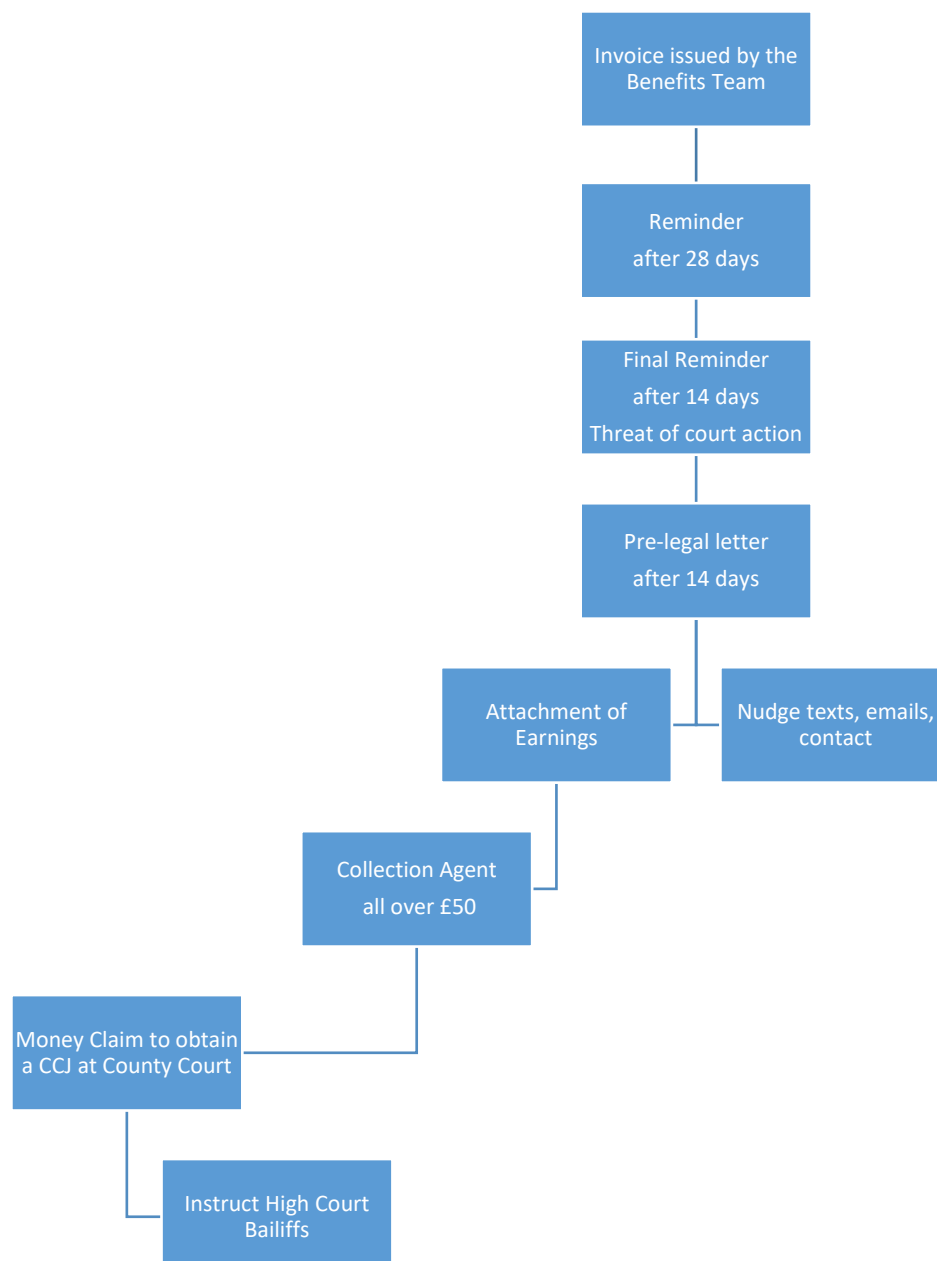
- 7.1 In the cases of sundry debts it is the service or relevant manager who should decide whether enforcement action should be taken. The Income Team will inform services of any debts owing to them and they should respond to say whether each case should then be enforced.



- 7.2 Actions within sundry debt recovery should be complete in a timely manner. Where delays of over 28 days past the due date are encountered at any stage, the reasons should be detailed within the case notes on system.
- 7.3 Forfeiture can also be considered for the recovery of commercial rent. This is where the Council will forfeit a lease due to non-payment of rent. The Council will instruct an Enforcement Agent to carry out the process of securing the property.

8. Housing Benefit Overpayment

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



9. Enforcement

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

10. Enforcement Agents

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

11. Attachment of Earnings, Fees or Benefits

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

12. Bankruptcy Proceedings/Liquidation

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

13. Charging Orders on Property

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

11. Committal Proceedings

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

12. Money Claim

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

13. Vulnerable customers and those who are in financial difficulty

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

Considerations may include:

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

For business debts considerations may include:

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

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

14. Tracing and Searches

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

15. Bad debts

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

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

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

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

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

16. Complaints and errors

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

Appendix 1

Standard Enforcement Actions for Mortgages and Shared Ownership Scheme

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

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

Mortgages

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

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

Shared ownership cases

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

Appendix 2

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

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

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

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



Data Protection Policy

October 2020



Customer Business Culture

Data Protection Policy

CONTEXT

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

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

APPLICATION OF POLICY

The Council fully endorses and adheres to the principles set out in the Data Protection legislation (Data Protection Act 2018 and General Data Protection Regulations). The Council will therefore ensure that all employees, Councillors, contractors, agents, consultants, partners or anyone else who has access to any personal data held by or for the Council are fully aware of and abide by their duties and responsibilities under Data Protection legislation.

This Policy and the procedures set down in it are reviewed annually to ensure that the Council continues to comply with all relevant statutory requirements.

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

This includes:

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

The Council will ensure that data subjects have appropriate access, upon written request, to personal information relating to them and will ensure the data subjects' rights to rectification, erasure, restriction, portability and object are adhered to.

THE PRINCIPLES OF DATA PROTECTION

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

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

DEFINITION OF PERSONAL AND SENSITIVE DATA

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

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

Personal sensitive data is defined as personal data consisting of information as to:

- Racial or ethnic origin
- Political opinion
- Religious or other beliefs
- Trade union membership
- Physical or mental health or condition
- Sexual life or sexual orientation
- Criminal proceedings or convictions
- Philosophical
- Genetic data
- Biometric data.

ROLES AND RESPONSIBILITIES

Colchester Borough Council will ensure that:

- A member of staff, the Data Protection Officer (DPO), is appointed who has specific responsibility for data protection within the Council
- Any disclosure of personal data is in compliance with the law and with approved procedures
- Anyone managing and handling personal information understands that they are legally bound to follow good data protection practice
- Anyone managing and handling personal information is appropriately trained and supervised
- Staff have access only to personal information relevant to their roles
- Appropriate advice and guidance is available to anyone wanting to make enquiries about personal information held by the Council
- Enquiries and requests regarding personal information are handled courteously and within the time limits set out in law
- All councillors are to be made fully aware of this policy and of their duties and responsibilities under legislation
- Where personal data may need to be shared with third parties in order to deliver services or perform our duties, the Council will only share personal data when a lawful basis from the legislation can justify that sharing, where it is necessary to achieve a clear purpose and, with that purpose in mind, it is fair and proportionate to do so
- Data Protection Impact Assessments (DPIA) are conducted, and signed off by the Data Protection Officer and the Senior Information Risk Owner (SIRO) where processing presents a high risk to the privacy of data subjects
- A record of personal data processing is kept and maintained, this will include a data classification.

All managers and staff will ensure that:

- Paper files and other records or documents containing personal and or sensitive data are kept securely and destroyed securely
- Personal data held electronically is protected by the use of secure passwords
- All users must choose passwords which meet the security criteria specified by the Council
- Staff working remotely from home or elsewhere must keep any Council owned equipment they use secure and prevent systems and data for which the Council is responsible being used or seen by members of their family or any other unauthorised person
- No personal data is disclosed either verbally or in writing, accidentally or otherwise, to any unauthorised third party
- Personal data is not stored on personal devices or forwarded to personal email accounts
- Personal data is not be left where it can be accessed by persons not authorised to see it
- Personal data is kept up to date and accurate
- Personal data is kept in accordance with the Council's retention schedule
- Any data protection breaches are swiftly brought to the attention of the Data Protection Officer and that they support the Data Protection Officer in resolving breaches
- Where there is uncertainty around a data protection matter advice is sought from the Data Protection Officer.

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

- Confirm in writing that they will abide by the requirements of the legislation with regard to information obtained from the Council
- Provide assurance relating to their compliant handling of personal data and when requested allow the Council to audit the protection of data held on its behalf
- Ensure that they and all persons appointed by them who have access to personal data held or processed for or on behalf of the Council are aware of this Policy and are fully trained in their duties and responsibilities under Data Protection legislation
- Ensure that the Council receives prior notification of any disclosure of personal data to any other organisation or any person who is not a direct employee of the contractor
- Indemnify the Council without limitation against any prosecutions, claims, proceedings, actions or payments of compensation or damages arising from the loss or misuse of data. Any breach of any provision of Data Protection Act 2018 (DPA 2018) or the General Data Protection Regulations (GDPR) will be deemed as being a breach of any contract between the Council and that individual, company, partner or firm.

The Council's Data Protection Officer is responsible for:

- Advising the Council and its staff of its obligations under Data Protection legislation
- Ensuring the provision of cascade Data Protection training, for staff within the Council
- The development of best practice guidelines
- Ensuring compliance checks are undertaken to ensure adherence, throughout the authority, with Data Protection legislation
- Providing advice where requested on Data Protection Impact Assessments
- To co-operate with and act as the contact point for the Information Commissioner's Office
- For conducting an annual review of this Data Protection Policy and the practices and procedures pertaining to it to ensure continuing compliance with all relevant statutory provisions.

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

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

COUNCILLORS

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

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

This policy applies to councillors, and all councillors are made aware of the advice produced by the Information Commissioners Office, which can be read by clicking on the link below:

<https://ico.org.uk/for-organisations/in-your-sector/political/Councillors> must be registered with the Information Commissioner as data controllers.

THE INFORMATION COMMISSIONER

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

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

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

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

FURTHER INFORMATION

Contact

ICT

ICT@colchester.gov.uk

DPO

DPO@colchester.gov.uk

01206 507340

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



Acceptable Use Policy

October 2020



Customer Business Culture

Acceptable Use Policy

CONTEXT

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

APPLICATION OF POLICY

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

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

This policy will be reviewed annually.

ACCESS TO IT SYSTEMS

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

PASSWORDS

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

BEHAVIOUR

- You must not participate in unlawful, libellous, immoral or offensive activities, including accessing, downloading, storing, creating, copying or disseminating offensive material. This includes, but is not limited to, material of a pornographic, sexual, violent, criminal, racist, sexist or otherwise discriminatory nature. Further, you must not use the systems to perpetrate any form of fraud or piracy.
- You must not publish a website, or any content on a website, that could bring the organisation into disrepute. This includes publishing defamatory or knowingly false material about the organisation, colleagues or customers in any online publishing format.
- Only subscribe to services with your professional email address when representing the organisation.
- CBC facilities and identity must not be used for commercial purposes outside the authority or remit of the Council, or for personal financial gain.
- You must not use the internet or email to make personal gains or conduct a personal business.
- You must not use the internet or email to gamble.
- You must not bring the Council into disrepute through use of online, 'social networking' activities.
- You must report faults with information and communications technology and co-operate with fault diagnosis and resolution.
- If you use our technology or our internet provision for personal use, the Council takes no responsibility for the security of your personal information. It is recommended you do not carry out personal financial transactions.

DEVICES

- You must not connect any non-authorised device to the network or IT systems.
- You must not store data on any non-authorised equipment.
- In order to comply with data protection legislation, all Council communications must only be made using Council approved applications and devices.

STORAGE

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

SECURITY AND LICENCING

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

WORKING REMOTELY

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

USE OF SHAREPOINT

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

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

USE OF ONEDRIVE

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

MOBILE PHONES

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

WHEN AN EMPLOYEE LEAVES

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

MONITORING

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

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

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

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

Also see

Information Security Policy

Data Protection Policy

Contact

ICT

ICT@colchester.gov.uk

01206 507340



Retention Policy

October 2020



Customer Business Culture

Retention Policy

CONTEXT

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

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

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

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

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

APPLICATION OF POLICY

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

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

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

RELEVANT PRINCIPLES OF DATA PROTECTION

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

- Personal data is retained only for as long as necessary
- Data is disposed of properly
- All personal data is processed in accordance with the rights of the individual concerned
- Security is maintained at all times;
- The movement of personal data is done in a lawful way, both inside and outside the Council, and that suitable safeguards exist, at all times.

DEFINING RETENTION PERIODS

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

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

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

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

ROLES AND RESPONSIBILITIES

Colchester Borough Council will ensure that:

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

All managers and staff will ensure that:

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

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

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

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

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

FURTHER INFORMATION

Contact

DPO

DPO@colchester.gov.uk

01206 507340

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



Information Security Policy

October 2020



Information Security Policy

CONTEXT

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

APPLICATION OF POLICY

Everyone who accesses information the organisation holds must be aware of these policy statements and their responsibilities in relation to information security.

Colchester Borough Council commits to informing all employees, Councillors, voluntary workers, agency staff, contractors and other third parties of their obligations before they are authorised to access systems and information and subsequently at regular intervals. Other organisations, and their users, granted access to information held by Colchester Borough Council must abide by this policy.

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

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

INFORMATION SECURITY PRINCIPLES

Information security is the preservation of:

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

ROLES AND RESPONSIBILITIES

The Organisation

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

The Chief Executive

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

Senior Information Risk Owner

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

Information Security Manager

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

System Owners

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

Information Asset Owners

- Assess the risks to the information they are responsible for
- Define the protection measures of the information they are responsible for, taking consideration of the sensitivity and value of the information
- Communicate the protection controls to authorised users and ensure controls are followed

All Managers Must:

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

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

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

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

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

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

MONITORING

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

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

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

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

Also see

Acceptable Use Policy

Data Protection Policy

Contact

ICT@colchester.gov.uk

01206 507340



Anti-Money Laundering Policy 2020/21

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

November 2020

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ANTI-MONEY LAUNDERING POLICY

1. Introduction

Although local authorities are not directly covered by the requirements of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, guidance from CIPFA indicates that they should comply with the underlying spirit of the legislation and regulations.

Colchester Borough Council is committed to the highest possible standards of conduct and has, therefore, put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

2. Scope of the Policy

This policy applies to all employees, whether permanent or temporary, and Members of the Council.

Its aim is to enable employees and Members to respond to a concern they have in the course of their dealings for the Council. Individuals who have a concern relating to a matter outside work should contact the Police.

3. Definition of Money Laundering

Money laundering describes offences involving the integration of the proceeds of crime, or terrorist funds, into the mainstream economy. Such offences are defined under the Proceeds of Crime Act 2002 as the following 'prohibited acts':

- Concealing, disguising, converting, transferring or removing criminal property from the UK
- Becoming involved in an arrangement which an individual knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- Acquiring, using or possessing criminal property
- Doing something that might prejudice an investigation e.g. falsifying a document
- Failure to disclose one of the offences listed in a) to c) above, where there are reasonable grounds for knowledge or suspicion
- Tipping off a person(s) who is or is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation.

Provided the Council does not undertake activities regulated under the Financial Services and Markets Act 2000, the offences of failure to disclose and tipping off do not apply. However, the Council and its employees and Members remain subject to the remainder of the offences and the full provisions of the Terrorism Act 2000.

The Terrorism Act 2000 made it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism, or resulting from acts of terrorism.

Although the term ‘money laundering’ is generally used to describe the activities of organised crime, for most people it will involve a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

Potentially very heavy penalties (unlimited fines and imprisonment up to fourteen years) can be handed down to those who are convicted of one of the offences above.

4. Requirements of the Money Laundering Legislation

The main requirements of the legislation are:

- To appoint a money laundering reporting officer
- Maintain client identification procedures in certain circumstances
- Implement a procedure to enable the reporting of suspicions of money laundering
- Maintain record keeping procedures.

5. The Money Laundering Reporting Officer (MLRO)

The Council has designated the Monitoring Officer as the Money Laundering Reporting Officer (MLRO). He can be contacted on 01206 282213 or at andrew.weavers@colchester.gov.uk

In the absence of the MLRO or in instances where it is suspected that the MLRO themselves are involved in suspicious transactions, concerns should be raised with the Council’s Section 151 Officer, Paul Cook.

6. Client Identification Procedures

Although not a legal requirement, the Council has developed formal client identification procedures which must be followed when Council land or property is being sold. These procedures require individuals and if appropriate, companies to provide proof of identity and current address.

If satisfactory evidence is not obtained at the outset of a matter, then the transaction must not be progressed and a disclosure report, available on the Hub, must be submitted to the Money Laundering Reporting Officer.

All personal data collected must be kept in compliance with the Data Protection Act.

7. Reporting Procedure for Suspicions of Money Laundering

Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the Act, you must disclose this as soon as practicable to the MLRO. The disclosure should be within “hours” of the information coming to your attention, not weeks or months later.

Your disclosure should be made to the MLRO using the disclosure report, attached at Appendix 1 to this policy. The report must include as much detail as possible including

- Full details of the people involved

- Full details of the nature of their/your involvement.
- The types of money laundering activity involved
- The dates of such activities
- Whether the transactions have happened, are ongoing or are imminent
- Where they took place
- How they were undertaken
- The (likely) amount of money/assets involved
- Why, exactly, you are suspicious.

Along with any other available information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable him to prepare his report to the National Crime Agency (NCA), where appropriate. You should also enclose copies of any relevant supporting documentation.

If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327 – 329 of the Act, then your report must include all relevant details, as you will need consent from the NCA, via the MLRO, to take any further part in the transaction - this is the case even if the client gives instructions for the matter to proceed before such consent is given. You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline;

Once you have reported the matter to the MLRO you must follow any directions he may give you. You must NOT make any further enquiries into the matter yourself: any necessary investigation will be undertaken by the NCA. Simply report your suspicions to the MLRO who will refer the matter on to the NCA if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, even if the NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise you may commit a criminal offence of “tipping off”.

Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

8. Consideration of the disclosure by the Money Laundering Reporting Officer

Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. He should also advise you of the timescale within which he expects to respond to you.

The MLRO will consider the report and any other available internal information he thinks relevant, for example:

- reviewing other transaction patterns and volumes

- the length of any business relationship involved
- the number of any one-off transactions and linked one-off transactions
- any identification evidence held.

The MLRO will undertake such other reasonable inquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.

Once the MLRO has evaluated the disclosure report and any other relevant information, he must make a timely determination as to whether:

- there is actual or suspected money laundering taking place; or
- there are reasonable grounds to know or suspect that is the case; and
- whether he needs to seek consent from the NCA for a particular transaction to proceed.

Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless he has a reasonable excuse for non-disclosure to the NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then he must note the report accordingly; he can then immediately give his consent for any ongoing or imminent transactions to proceed.

In cases where legal professional privilege may apply, the MLRO must liaise with the Council's Section 151 Officer to decide whether there is a reasonable excuse for not reporting the matter to the NCA.

Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he shall mark the report accordingly and give his consent for any ongoing or imminent transaction(s) to proceed.

All disclosure reports referred to the MLRO and reports made by him to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

The MLRO commits a criminal offence if he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him, that another person is engaged in money laundering and he does not disclose this as soon as practicable to the NCA.

9. Training

Officers considered likely to be exposed to suspicious situations, will be made aware of these by their senior officer and provided with appropriate training.

Additionally, all employees and Members will be familiarised with the legal and regulatory requirements relating to money laundering and how they affect both the Council and themselves.

Notwithstanding the paragraphs above, it is the duty of officers and Members to report all suspicious transactions whether they have received their training or not.

10. Conclusion

Given a local authority's legal position with regard to the legislative requirements governing money laundering, the Council believes that this Policy represents a proportionate response to the level of risk it faces of money laundering offences.

11. Review

This policy will be reviewed annually.

CONFIDENTIAL

Appendix 1

REPORT TO MONEY LAUNDERING REPORTING OFFICER
RE: SUSPECTED MONEY LAUNDERING ACTIVITY

To: Monitoring Officer, Money Laundering Reporting Officer
From: *[Name of employee]*
Department: *[Post title and Service Area]*
Ext / Tel No:

DETAILS OF SUSPECTED OFFENCE:**Name(s) and address(es) of person(s) involved:***[If a company / public body please include details of nature of business]***Nature, value and timing of activity involved:***[Please include full details e.g. what, where, how. Continue on a separate sheet if necessary]***Nature of suspicions regarding such activity:***[Please continue on a separate sheet if necessary]*

Has any investigation been undertaken (as far as you are aware)? *[Please tick relevant box]* Yes ☐ No ☐

If yes, please include details below:

Have you discussed your suspicions with anyone else? Yes ☐ No ☐
[Please tick relevant box]

If yes, please provide details of who the discussions took place with and explain why such discussion was necessary:

Have you consulted any supervisory body guidance re: money laundering (e.g. the Law Society) *[Please tick relevant box]* Yes ☐ No ☐

If yes, please specify below:

Do you feel you have a reasonable justification for not disclosing the matter to the NCA? (e.g. are you a lawyer and wish claim legal privilege?) *[Please tick relevant box]* Yes ☐ No ☐ **to**

If yes, please set out full details below:

Are you involved in a transaction which might be a prohibited act under sections 327-329 of the Act and which requires appropriate consent from the NCA

Yes ☐No ☐

[Please tick relevant box]

If yes, please include details below:

Please set out below any other information you feel is relevant:

Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described. To do so may constitute a tipping off offence, which carries a maximum penalty of 5 years imprisonment.

Signed:

Dated:



Code of Practice on Covert Surveillance 2020/21

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

2020

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CODE OF PRACTICE ON COVERT SURVEILLANCE

1.0 INTRODUCTION

The Council enforces the law in a number of areas. As part of this enforcement there will be occasions where surveillance of individuals or property is necessary to ensure that the law is being complied with. When the Council does decide to undertake surveillance, it is important that it remains within the law which is contained in the Regulation of Investigatory Powers Act 2000 ("the Act") as amended by the Protection of Freedoms Act 2012 and the Investigatory Powers Act 2016.

The GOV website provides an overview of the Act and procedures:

<http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/>

The Act sets out certain criteria that the Council has to comply with before it undertakes surveillance and those are also reflected in the Office of Surveillance Commissioners' Procedures and Guidance ("the Guidance") in relation to covert surveillance by public authorities which is available on the Investigatory Powers Commissioner's website:

<https://www.ipco.org.uk/docs/OSC%20PROCEDURES%20AND%20GUIDANCE.pdf>

The Home Office have published a Code of Practice on Covert Surveillance and Property Interference which is available on its website:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742041/201800802_CSPI_code.pdf

The Home Office has also issued guidance on the judicial approval process for the Regulation of Investigatory Powers (RIPA) Act 2000 and the crime threshold for directed surveillance. This is available on the Home Office website:

<http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/local-authority-ripa-guidance/local-authority-england-wales?view=Binary>

Officers will need to familiarise themselves with the contents of the Guidance and the Code.

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

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

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

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

This policy sets out how Colchester Borough Council (including Colchester Borough Homes) will comply with the Act, the Code and the Guidance. It also clarifies the circumstances in which officers will be able to use covert surveillance and the internal requirements that will need to be observed when conducting that surveillance.

The Policy Statement should be read in conjunction with the Council's Data Protection Policy.

The Policy Statement will be made available for inspection at Council offices.

Any officer considering an application under the Act should first seek the advice of the Senior Responsible Officer in Legal Services.

2.0 What does the Act and the Code cover?

The Act and the Code cover covert surveillance, which is defined in the Act as being surveillance which *“is carried out in manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place”*.

2.1 Directed surveillance

Local authorities can only use a form of covert surveillance called “directed surveillance”. This is defined in the Act as where the surveillance is covert but not intrusive and is undertaken:

- for the purposes of a specific investigation or operation
- in such a manner as is likely to result in the obtaining of private information about a person (whether or not specifically identified for the purposes of the investigation) and
- otherwise than by way of an immediate response to events or circumstances, the nature of which is such that it would not be reasonably practicable for an authorisation under the Act to be sought.

“Private Information” in relation to a person includes any information relating to their private or family life.

Surveillance is not covert if notification has been sent to the intended subject of the surveillance. For example, in a noise nuisance case a letter notifying a subject that the noise will be monitored by officers visiting will make the surveillance overt. However, as a matter of good practice, surveillance should be considered covert if the notification to the subject is over 3 months old. All communications of this nature should be sent by Registered Post or delivered by hand.

2.2 General observations

General observations by officers in the course of their duties are not covered by the Act

Directed surveillance will not include surveillance that is undertaken as an immediate response to events or circumstances which, by their nature could not have been foreseen. This will include situations where officers are out in the normal course of their duties and happen to witness an activity, for example a housing officer visiting tenants and witnessing

anti-social behaviour by an individual. *In other words, where there is no systematic surveillance.*

If there is any doubt as to whether a RIPA authorisation is required, you must seek advice from the Council's Legal Services.

2.3 Intrusive surveillance

"Intrusive Surveillance" is surveillance that is:

- carried out in relation to anything taking place on any residential premises or in any private vehicle; and
- involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

Intrusive Surveillance cannot be authorised by local authority officers and all officers are strictly prohibited from engaging in Intrusive Surveillance.

2.4 Covert Human Intelligence Sources

The Council is also permitted to use Covert Human Intelligence Sources under the Act. A Covert Human Intelligence Source is someone who establishes or maintains a personal or other relationship for the covert purpose of helping the covert use of the relationship to obtain information. However, at the current time the Council does not consider this necessary and will not use Covert Human Intelligence Sources.

All officers are strictly prohibited from using Covert Human Intelligence Sources.

Unlike directed surveillance, which relates specifically to private information, authorisations for the use or conduct of a Covert Human Intelligence Source do not relate specifically to private information, but to the covert manipulation of a relationship to gain any information. European Court of Human Rights case law makes it clear that Article 8 of the European Convention on Human Rights includes the right to establish and develop relationships. Accordingly, any manipulation of a relationship by a public authority (e.g. one party having a covert purpose on behalf of a public authority) is likely to engage Article 8, regardless of whether or not the public authority intends to acquire private information.

Not all human source activity will meet the definition of a Covert Human Intelligence Source. For example, a source may be a public volunteer who discloses information out of professional or statutory duty, or has been tasked to obtain information other than by way of a relationship.

Certain individuals will be required to provide information to public authorities or designated bodies out of professional or statutory duty. For example, employees within organisations regulated by the money laundering provisions of the Proceeds of Crime Act 2002 will be required to comply with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and report suspicious transactions. Similarly, financial officials, accountants or company administrators may have a duty to provide information that they have obtained by virtue of their position to the Serious Fraud Office.

Any such regulatory or professional disclosures should not result in these individuals meeting the definition of a Covert Human Intelligence Source, as the business or professional relationships from which the information derives will not have been established or maintained for the covert purpose of disclosing such information.

Individuals or members of organisations (e.g. travel agents, housing associations and taxi companies) who, because of their work or role have access to personal information, may voluntarily provide information to the police on a repeated basis and need to be managed appropriately. Public authorities must keep such human sources under constant review to ensure that they are managed with an appropriate level of sensitivity and confidentiality, and to establish whether, at any given stage, they could be regarded as a Covert Human Intelligence Source.

Any officer concerned must seek urgent advice from the Senior Responsible Officer.

3.0 Areas of operation

The Council has examined its functions and considers that the following areas may use directed surveillance from time to time. The following is not meant to be an exhaustive list but covers areas where directed surveillance may be necessary in the course of the Council's business.

- Neighbour nuisance and anti-social behaviour
- Protection of Council property
- Licensing enforcement
- Fraud against the Council(including benefit fraud)
- Misuse of Council property, facilities and services
- Enforcement of the planning regime
- Environmental monitoring and control
- Food Safety enforcement.
- CCTV, but more on this later (see 8.2).

However this is subject to the crime threshold referred to at 5.0 below.

4.0 AUTHORISATION AND AUTHORISING OFFICERS

If directed surveillance is proposed to be carried out then **authorisation must be sought**. Under the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003 as amended by the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 and the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2015, the Council considers that the following officers can authorise directed surveillance ("Authorising Officer"):

Chief Executive;
Chief Operating Officer;
Executive Director; and Strategic Director.

Any case involving Confidential Information must be authorised by the Chief Executive.

An Authorising Officer when being requested to authorise directed surveillance must be satisfied that the request is necessary and meets the criteria set down in the Act, the Code and the Guidance. An Authorising Officer must not authorise directed surveillance connected with an investigation in which they are directly involved.

Any application to extend or cancel surveillance must also be approved by an Authorising Officer.

Once any application is approved by the Authorising Officer it must be referred to Legal Services who will make an application for approval by a Magistrate.

No directed surveillance may be undertaken by the Council without the prior approval of a Magistrate.

5.0 CRIME THRESHOLD

The Guidance states that the Council:

- **can** only grant an authorisation under RIPA for the use of directed surveillance where it is investigating criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco.
- **cannot** authorise directed surveillance for the purpose of preventing disorder unless this involves a criminal offence(s) punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months' imprisonment.
- **can** authorise use of directed surveillance in more serious cases as long as the other tests are met – ie that it is necessary and proportionate and where prior approval from a Magistrate has been granted. Examples of cases where the offence being investigated attracts a maximum custodial sentence of six months or more could include more serious criminal damage, dangerous waste dumping and serious or serial benefit fraud.
- **can** authorise the use of directed surveillance for the purpose of preventing or detecting specified criminal offences relating to the underage sale of alcohol and tobacco where the necessity and proportionality test is met and prior approval from a Magistrate has been granted.
- **cannot** authorise the use of directed surveillance under RIPA to investigate disorder that does not involve criminal offences or to investigate low-level offences which include, for example, littering, dog control and fly-posting.

6.0 GROUNDS FOR GRANTING AN AUTHORISATION

An authorisation for directed surveillance may only be granted if the Authorising Officer believes that authorisation is necessary:

for the purposes of preventing or detecting crime or of preventing disorder and it meets the crime threshold mentioned in 5.0 above.

AND the Authorising Officer must also be satisfied and believe that the surveillance is proportionate to what it seeks to achieve.

The Code advises that following elements of proportionality should be fully considered:

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived mischief;
- explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others;
- that the activity is an appropriate use of the legislation and the only reasonable way, having considered all others, of obtaining the necessary result; and
- providing evidence of other methods considered and why they were not implemented.

Covert surveillance will only be used for one of the legitimate purposes where sufficient evidence exists to justify the surveillance and the surveillance is the least ~~harmful~~ **intrusive** method of meeting that purpose. The surveillance itself must be a proportionate response to the issue it is seeking to address. Consideration should be given to alternative methods of resolving the situation or obtaining the evidence sought and this should be documented.

Particular attention should be paid to the effect of the surveillance on the privacy of other persons ("collateral intrusion"). Measures should be taken to avoid or minimise intrusion. Any collateral intrusion should be taken into account when an Authorising Officer is assessing proportionality.

7.0 PROCEDURE FOR AUTHORISATIONS, CANCELLATIONS AND RENEWALS

7.1 Authorisations

An authorisation must be granted by those persons authorised at 4 above. No other person is permitted to authorise directed surveillance.

Authorisations must be in writing on the form attached.

Authorisation cannot be given to operations after they have commenced. Failure to obtain correct authorisation may mean that evidence is not admissible in legal proceedings and may breach a subject's human rights.

The authorisation form must be kept on the relevant case papers and held securely. A copy of the authorisation must be passed to Legal Services to be held on a central file and monitored for consistency of approach of Authorising Officers and validity.

An authorisation **period begins on the date and time the authorisation is approved by a magistrate and** will cease to have effect (unless renewed) at the end of a period of *three months* beginning with the day on which it took effect.

7.2 Magistrates' Approval

Once an authorisation form has been completed Legal Services will:

- contact the Magistrates' Court to arrange for a hearing
- supply the court with a partially completed judicial application/order form
- supply the court with a copy of the authorisation and any supporting documents setting out the Council's case
- the hearing will be in private and be heard by a single Justice of the Peace.

The Justice of the Peace may decide to either:

- (i) approve the grant (or renewal) of an authorisation; or
- (ii) refuse to approve the grant (or renewal) of an authorisation.

It is preferable for the Authorising Officer also to attend the hearing to give the Bench assistance if necessary.

7.3 Review

Officers should, as a matter of good practice, review authorisations on a regular basis during the course of that surveillance to ensure that the authorisation still meets the criteria. If it does not, the authorisation should be cancelled using the procedure described below. A review form is attached. Officers in charge of investigations will be required to keep a record of these reviews and will submit a record of that review (normally by email) to the Monitoring Officer to be held centrally.

7.4 Renewals

A renewal of an authorisation can be made ~~at any time~~ **shortly** before it expires and must be done on the form attached. The original should be kept on the case file and a copy passed to the Monitoring Officer for retention centrally. When considering whether to grant a renewal of an authorisation the Authorising Officer will consider the same factors outlined at 5 above. All renewals must be subject of an application to the Magistrates' Court in line with the procedure at 7.2 above.

7.5 Cancellations

The Authorising Officer who last granted or renewed the authorisation must cancel it if s/he is satisfied that the directed surveillance no longer meets the criteria for authorisation. A cancellation should be made on the form attached. The original should be retained on the case file and a copy passed to Legal Services for retention centrally.

Authorisations, renewals and cancellations are subject to monitoring on an annual basis by the Monitoring Officer as to validity under the Act and the Code.

7.6 Audit

At the end of each calendar year each of the Authorising Officers referred to at 4 must provide the Monitoring Officer with a list of all directed surveillance authorised by them throughout that year or provide written and signed confirmation that no such surveillance has been authorised by them

8.0 MISCELLANEOUS POINTS

8.1 Material obtained from covert surveillance ("product")

Material produced as a result of covert surveillance will be secured and transported securely. Where the product obtained is to be used in criminal proceedings the Council must comply with the provisions of the Police and Criminal Evidence Act 1984. In all other cases the treatment of product must follow Council's guidelines on access, retention and storage as set out in the Data Protection Policy.

8.2 CCTV

The Act and the Code will not usually apply to use of an overt CCTV system because the public are aware that the system is in use. However there are circumstances where the system is used for the purposes of a *specific operation or investigation* and in these circumstances an authorisation will be required. If the police assume operational control of the system an authorisation complying with their own procedures must be supplied to the Council. Further information in respect of these procedures can be found in the Council's CCTV Code of Practice, which has been produced in conjunction with Essex Police.

9.0 ~~SOCIAL NETWORKING SITES~~ MEDIA

With the increasing use of social media there is a significant amount of information on an individual's social networking pages. This information might be relevant to an investigation being undertaken by the Council. However, unguided research into the sites of suspects could fall within the remit of RIPA and therefore require authorisation prior to it being undertaken. **You should therefore seek advice from Legal Services prior to undertaking any investigation using social networking sites.**

Where privacy settings are available but not applied the data available on Social Networking Sites may be considered 'open source' and an authorisation is not usually required. **However, privacy implications may still apply even if the subject has not applied privacy settings (section 3.13 of the Code).**

Repeat viewing of 'open source' sites, however, may constitute directed surveillance on a case by case basis and this should be borne in mind e.g. if someone is being monitored through, for example, their Facebook profile for a period of time and a record of the information is kept for later analysis, this is likely to require a RIPA authorisation for directed surveillance.

To avoid the potential for inadvertent or inappropriate use of social network sites in investigative and enforcement roles, Officers should be mindful of any relevant guidance

and the Council's separate Use of Social Media in Investigations Policy and Procedure attached at Annex 1 of this Policy.

10.0 TRAINING

The Council will ~~endeavour to~~ ensure that the Officers who are authorising directed surveillance are appropriately trained.

All Authorising Officers and those routinely engaged in directed surveillance have been provided with this guidance, have access to the Code and the standard forms.

This Code of Practice and the standard forms are available in electronic format on the Council's intranet, COLIN.

11.0 GENERAL BEST PRACTICES

The following guidelines are considered as best working practices by all public authorities with regard to all applications for authorisations covered by the Code:

- applications should avoid any repetition of information;
- information contained in applications should be limited to that required by the relevant legislation;
- an application should not require the sanction of any person in the Council other than the Authorising Officer;
- where it is foreseen that other agencies will be involved in carrying out the surveillance, these agencies should be detailed in the application;
- authorisations should not generally be sought for activities already authorised following an application by the same or a different public authority.

12.0 SENIOR RESPONSIBLE OFFICER

The Council's nominated Senior Responsible Officer in accordance with the Code is Andrew Weavers, Monitoring Officer who will be responsible for:

- the integrity of the process in place within the Council to authorise directed surveillance
- compliance with Part II of the Act, the Code and the Guidance
- engagement with the ~~Office of the Surveillance Commissioners~~ **Investigatory Powers Commissioner's Office** and inspectors when they conduct their inspections, and where necessary, overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner
- assurance that all authorising officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by the ~~Office of the Surveillance Commissioners~~ **Investigatory Powers Commissioner's Office**
- supervising the maintenance of records.

13.0 COMMUNICATIONS DATA

Before considering submitting an application for the acquisition of communications data, all officers must first refer the matter to the Senior Responsible Officer.

Communications Data is the 'who', 'when' and 'where' of a communication, but not the 'what' (i.e. the content of what was said or written). Local Authorities are not permitted to intercept the content of any person's communications.

Part 3 of the Investigatory Powers Act 2016 (IPA) replaced part 1 chapter 2 of the Act in relation to the acquisition of communications data and puts local authorities on the same standing as the police and law enforcement agencies. Previously local authorities have been limited to obtaining subscriber details (known now as "entity" data) such as the registered user of a telephone number or email address. Under the IPA, local authorities can now also obtain details of in and out call data, and cell site location. This information identifies who a criminal suspect is in communication with and whereabouts the suspect was when they made or received a call, or the location from which they were using an Internet service. This additional data is defined as "events" data.

A new threshold for which communications data "events" data can be sought has been introduced under the IPA as "applicable crime". Defined in section 86(2A) of the IPA this means: an offence for which an adult is capable of being sentenced to one year or more in prison; any offence involving violence, resulting in substantial financial gain or involving conduct by a large group of persons in pursuit of a common goal; any offence committed by a body corporate; any offence which involves the sending of a communication or a breach of privacy; or an offence which involves, as an integral part of it, or the sending of a communication or breach of a person's privacy.

Further guidance can be found in paragraphs 3.3 to 3.13 of the Communications Data Code of Practice published on the Home Office website:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/757850/Communications_Data_Code_of_Practice.pdf

The IPA has also removed the necessity for local authorities to seek the endorsement of a Justice of the Peace when seeking to acquire communications data. All such applications must now be processed through the National Anti-Fraud Network ("NAFN") and will be considered for approval by the independent Office of Communication Data Authorisation ("OCDA"). The transfer of applications between local authorities, NAFN and OCDA is all conducted electronically and will therefore reduce what can be a protracted process of securing an appearance before a Magistrate or District Judge (see local authority procedures set out in paragraphs 8.1 to 8.7 of the Communications Data Code of Practice).

14.0 COMPLAINTS

The Act, the Code and the Guidance are subject to monitoring by the ~~Office of the Surveillance Commissioners~~ **Investigatory Powers Commissioner's Office**. Any complaints regarding use of surveillance powers should be dealt with initially through the Council's Complaints and Compliments Procedure. If this does not result in a satisfactory outcome for the complainant then they should be referred to:

The Investigatory Powers Tribunal
PO Box 33220
London SW1V 9QZ
Tel: 0207 035 3711
Website : www.ipt-uk.com

15.0 QUERIES ABOUT THIS CODE OF PRACTICE

Any queries regarding this Code of Practice should be referred to the Monitoring Officer, Andrew Weavers on ☎ 01206 282213 or by email at andrew.weavers@colchester.gov.uk

Use of Social Media in Investigations Policy and Procedure 2020/21

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

November 2020

USE OF SOCIAL MEDIA IN INVESTIGATIONS

POLICY AND PROCEDURES

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1.0 INTRODUCTION & BACKGROUND

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

2.0 REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

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

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

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

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

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

Facebook	Twitter	Instagram
LinkedIn	Pintrest	Tumblr
Reddit	Flickr	Google+

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

4.0 PRIVACY SETTINGS

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

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

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

5.0 WHAT IS PERMITTED UNDER THIS POLICY

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

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

6.0 WHAT IS NOT PERMITTED UNDER THIS POLICY

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

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

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

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

7.0 CAPTURING EVIDENCE

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

8.0 OTHER INFORMATION TECHNOLOGY TOOLS AVAILABLE FOR INVESTIGATIVE PURPOSES

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

9.0 RETENTION AND DESTRUCTION OF INFORMATION

- 9.1 Where recorded material (in any form or media) is obtained during the course of an investigation which might be relevant to that investigation, or another investigation, or to pending or future civil or criminal proceedings, then it should **not** be destroyed, but retained in accordance with the requirements of the Data Protection Act 2018 , the Freedom of Information Act 2000, and any other legal requirements, including those of confidentiality, and the Council's policies and procedures regarding document retention. Advice should be sought from the Data Protection Officer or the Monitoring Officer.
- 9.2 Personal data gathered by the Council is subject to the Data Protection Act 2018. When considering whether to retain the data, the Council should:
- review the length of time it keeps personal data;
 - consider the purpose or purposes it holds the information for in deciding whether (and for how long) to retain it;
 - securely delete information that is no longer needed for this purpose or these purposes; and
 - update, archive or securely delete information if it goes out of date
- 9.3 Due to the nature of Social Media, it is important to remember that when information produced as a hard copy is destroyed in line with this paragraph, that all digital copies of that evidence is likewise destroyed.

10.0 REVIEW

- 10.1 This Policy will be reviewed periodically and in line with the Council's Code of Practice on Covert Surveillance to ensure that both documents remain current and compliant with relevant legal requirements and best practice guidance.



Whistleblowing Policy 2020/21

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

November 2020

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WHISTLEBLOWING POLICY

1.0 Introduction

Employees or Councillors are often the first to realise that there may be some form of inappropriate conduct within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of misconduct, but this can have serious consequences if wrongdoing goes undetected.

The Council is committed to the highest possible standards of openness, probity, accountability and honesty. In line with that commitment we expect employees, councillors and others that we deal with who have serious concerns, about any aspect of the Council's work, to come forward and voice those concerns.

This policy document makes it clear that employees and councillors can do so without fear of victimisation, subsequent discrimination or disadvantage. This Whistleblowing Policy and Procedure is intended to encourage and enable employees and councillors to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. With the exception of employment related grievances, this policy will apply to any act of Whistleblowing, as defined by the charity Public Concern at Work to mean; "A disclosure of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, be it of the employer or of its employees."

This policy and procedure applies to all employees, councillors, partners, volunteers and contractors. It also covers suppliers and members of the public.

These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures. Officers are responsible for making customers aware of the existence of these procedures.

This policy has been discussed with the relevant trade unions and has their support.

2.0 Aims and Scope of the Whistleblowing Policy

This policy aims to:

- Encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice without fear of recrimination.
- Provide avenues for you to raise those concerns and receive feedback on any action taken.
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- Reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.
- Advise you of the support that the Council will provide if you raise concerns in good faith.

There are existing procedures in place to enable you to lodge a grievance relating to your own employment. This Whistleblowing Policy and Procedure is intended to cover major concerns that fall outside the scope of other procedures. These include:

- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks, including risks to the public as well as other employees
- damages to the environment
- the unauthorised use of public funds
- possible fraud and corruption
- other unethical conduct
- unacceptable business risks.

This concern may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- is against the Council's Procedure Rules and policies; or
- falls below established standards of practice; or
- amounts to improper conduct.

3.0 Safeguards

3.1 Harassment or Victimisation

The Council is committed to good practice and high standards and wants to be supportive of employees and councillors.

The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to the Council and those for whom you are providing a service. In these situations you are a witness and not a complainant.

The Council will not tolerate the harassment or victimisation of any person who raises a concern. The Council's disciplinary procedures will be used against any employee who is found to be harassing or victimising the person raising the concern and such behaviour by a councillor will be reported under the Members' Code of Conduct.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you if you are an employee.

3.2 Confidentiality

All concerns will be treated in confidence and the Council will do its best to protect your identity if you do not want your name to be disclosed. If investigation of a concern discloses a situation that is sufficiently serious to warrant disciplinary action or police involvement, then your evidence may be important. Your name will not however be released as a possible witness until the reason for its disclosure, at this stage, has been fully discussed with you.

3.3 Anonymous Allegations

This policy encourages you to put your name to your allegation whenever possible.

Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.

In exercising this discretion, the factors to be taken into account would include the:

- seriousness of the issues raised;
- credibility of the concern; and
- likelihood of confirming the allegation from attributable sources.

3.4 Untrue Allegations

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If however, you make an allegation maliciously or for personal gain, disciplinary action may be taken against you, or if you are a councillor a complaint may be made under the Members' Code of Conduct.

4.0 How to raise a concern

You should normally raise concerns with the Monitoring Officer or the Section 151 Officer. However if your concern relates to one of these officers you should raise your concerns with the Chief Executive.

Concerns may be raised verbally or in writing. Employees or councillors who wish to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates); and
- the reason why you are particularly concerned about the situation.

The earlier you express the concern the easier it is to take action.

Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

Advice and guidance on how matters of concern may be pursued can be obtained from:

Chief Executive, Adrian Pritchard ☎ 282211

Monitoring Officer, Andrew Weavers ☎ 282213

Section 151 Officer, Paul Cook ☎ 505861

Deputy Monitoring Officer, Hayley McGrath ☎ 508902

Deputy Monitoring Officer, Julian Wilkins ☎ 282257.

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

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

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

Further guidance on protection for anyone raising a concern can be found in the Public Interests Disclosure Act 1998.

5.0 How the Council will respond

The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as rejecting them.

Where appropriate, the matters raised may be:

- investigated by management, Internal Audit, or through the disciplinary process
- referred to the police
- referred to the Council's external auditor
- the subject of an independent inquiry.

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which the Council will have in mind, is the public interest.

Some concerns may be resolved by agreed action without the need for investigation.

Within **five** working days of a concern being raised, one of the named Officers will write to you:

- acknowledging that the concern has been received
- indicating how it is proposed to deal with the matter
- giving an estimate of how long it will take to provide a final response
- informing you whether any initial enquiries have been made
- supplying you with information on staff support mechanisms, and
- informing you whether further investigations will take place and if not, why not.

The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, the Council will seek further information from you.

Where any meeting is arranged, off-site where appropriate, if you so wish, you can be accompanied by a union or professional association representative or a friend, or the group leader if you are a councillor.

The Council will take steps to minimise any difficulties, which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure and will help you with the preparation of statements.

The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigation.

6.0 The Responsible Officer

The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will provide an annual report on the operation of the policy to the Governance and Audit Committee.

7.0 How the matter can be taken further

This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- (a) Citizens Advice Bureau
- (b) relevant professional bodies or regulatory organisations
- (c) the police
- (d) Local Government and Social Care Ombudsman
- (e) the Council's Governance and Audit Committee.

If you are considering taking the matter outside of the Council, you should ensure that you are entitled to do so and that you do not disclose confidential information.

An independent charity, Protect, can offer independent and confidential advice. Protect can be contacted via their advice line on ☎ 020 3117 2520 or their website: <https://protect-advice.org.uk>

8.0 Questions regarding this policy

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

9.0 Review

This policy will be reviewed annually.

24 November 2020

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

1. Executive Summary

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

2. Recommended Decisions

- 2.1 To note the contents of this report.
- 2.2 To review the Members' Code of Conduct and the Council's "Arrangements" and consider whether to make any recommendations in relation to any amendments to the Members' Code of Conduct and the Council's "Arrangements" to Full Council.

3. Background

- 3.1 The Localism Act 2011 ("the Act") introduced the current system of regulation of standards of conduct for elected and co-opted Members. These arrangements came into effect on 1st July 2012. The Act requires local authorities to adopt a code of conduct consistent with the seven Nolan Principles of public life and that Principal Authorities put in place "Arrangements" to deal with allegations that Councillors had failed to comply with the Members' Code of Conduct. Principal Authorities are also required to appoint at least one "Independent Person" who are to be consulted as part of the Council's "Arrangements".
- 3.2 The Full Council at its meeting on 25 June 2012 formally adopted the Borough Council's Members' Code of Conduct and its "Arrangements" which are attached to this report at Appendix 2 and Appendix 3 respectively. As part of its "Arrangements", the Full Council at its meeting on 24 May 2017 re-appointed Barbara Pears and Sarah Greateorex as the Council's Independent Persons for a further term of four years.
- 3.3 The Act also introduced the current interest's regime which included a new register of Members' interests. The Government published amended guidance in September 2013 for councillors on interests ("Openness and transparency on personal interests – a guide for councillors") which has been circulated to all Borough Councillors and to every Town and Parish Council within the Borough.
- 3.4 The Act places on the Borough Council a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members. The Full Council has in turn delegated this function to this Committee as part of its terms of reference.

- 3.5 The Committee at its meeting on 26 November 2019 last reviewed the Council's Localism Act processes and this report seeks to review our subsequent experience to date.

4. Review of the Code

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

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

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

- 4.4 The Borough Council's Committee Management Information System (CMIS) enables the Register of Members' Interests to be published in line with the Government's transparency agenda so that all Councillors' information is in one place on the website.
- 4.5 Training on the Code on Conduct is offered regularly by the Monitoring Officer for Borough Councillors together with refresher training for Parish Councils.
- 4.6 The opportunity has been taken to amend the Code to reflect the fact that it is reviewed annually.

5. Review of the Arrangements and the Code of Conduct

- 5.1 The Act required the Council to adopt "Arrangements" for dealing with allegations that Councillors have potentially failed to comply with the Code. Any allegations that Councillors have not complied with the Disclosable Pecuniary Interests regime under the Act are not dealt with under the Council's "Arrangements" as they are potentially criminal offences and need to be dealt with by the Police. As at the date of this report there have been no such allegations or referrals.
- 5.2 The Council's "Arrangements" are made publicly available on the Borough Council's website and have been used on several occasions in relation to both Borough and Parish councillors. All allegations are received by the Monitoring Officer who makes an initial assessment of the merits of the complaint in consultation with an Independent Person in accordance with the "Arrangements".

- 5.3 The table at Appendix 1 below details the number, type and outcome of allegations received since 1 July 2012. The table indicates a decrease in the numbers in the past year. This is cannot be attributed to a particular reason. The Localism Act states that the Code of Conduct only applies when a Councillor is acting in their official capacity as a councillor. This has been upheld by subsequent case law which has confirmed the position. Accordingly, the Code can only be used to regulate councillors' conduct when they are acting in that capacity.
- 5.4 In previous years several complaints had been received regarding comments made on social media. The Committee supported the provision of training for councillors regarding the use of social media. In addition, the Member Development Group highlighted social media as an area where training should be provided for councillors. Last year sessions were run for councillors facilitated by an external trainer which were well attended. Even though the numbers of complaints have reduced it is suggested that refresher sessions are scheduled in due course.
- 5.5 Overall the Council's Localism Act "Arrangements" appear to be operating satisfactorily and I would propose that the Committee continues to keep them under annual review and to make any appropriate recommendations to Full Council on any subsequent amendments to the "Arrangements" in the light of experience. The Council's Code of Conduct is compliant with the law, however the Committee may wish to review its wording.
- 5.6 The Committee at its meeting on 28 July 2020 considered a report on the Local Government Associations' consultation on its proposed Model Code of Conduct. As agreed, the questionnaire was completed and submitted and the Local Government Association's response to the consultation and its recommendations will be reported to the Committee in due course.

6. Strategic Plan References

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

7. Publicity Considerations

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

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

- 8.1 None.

Appendices:

Appendix 1 – Code of Conduct Allegations received
Appendix 2 – Members' Code of Conduct
Appendix 3 – Localism Act Arrangements

Councillor Code of Conduct Allegations received since 1 July 2012

Allegations	Jul12 – Mar13	Apr 13 – Mar 14	Apr 14 – Oct 14	Nov 14- Oct 15	Nov 15 – Oct 16	Nov 16 – Oct 17	Nov 17 – Oct 18	Nov 18 – Oct 19	Nov 19 – Oct 20	Total
Number received	2	3	2	3	3**	13***	22****	3	6	57
Borough Councillor	1	3*	2	1	2	12	13•	3	5***	42
Parish Councillor	1	1	0	2	0	1	9••	0	1	15

NB.

*one complaint was made against two councillors

** two complaints were made against one councillor

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

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

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

••one person made the same complaint against three councillors

••• one person made the same complaint against two councillors

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

Source of complaints	Jul12 – Mar13	Apr 13 – Mar 14	Apr 14 – Oct 14	Nov 14- Oct 15	Nov 15 – Oct 16	Nov 16 – Oct 17	Nov 17 – Oct 18	Nov 18 – Oct 19	Nov 19 – Oct 20	Total
Member of the public	2	6	2	2	1	9	14	3	5	44
Borough Councillor	0	0	0	1	1	1	1	0	0	4
Parish Councillor	0	0	0	0	0	2	2	0	1	5
County Councillor	0	0	0	0	0	0	0	0	0	0
Member of Parliament	0	1	0	0	0	0	0	0	0	1

	Jul12 – Mar13	Apr 13 – Mar 14	Apr 14 – Oct 14	Nov 14- Oct 15	Nov 15 – Oct 16	Nov 16 – Oct 17	Nov 17 – Oct 18	Nov 18 – Oct 19	Nov 19 – Oct 20	Total
Referrals to Governance and Audit Committee	0	0	0	1	1	1	0	0	0	3

Outcome	Jul12 – Mar13	Apr 13 – Mar 14	Apr 14 – Oct 14	Nov 14- Oct 15	Nov 15 – Oct 16	Nov 16 – Oct 17	Nov 17 – Oct 18	Nov 18 – Oct 19	Nov 19 – Oct 20	Total
Not within remit of Code of Conduct	0	0	0	1	0	5	0	1	0	7
Merits no further investigation	2	3	2	2	3	8	14	2	6	42
Merits further investigation	0	0	0	0	0	0	1	0	0	1

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



Localism Act 2011

Promoting and Maintaining High Standards of Conduct in Local Government

CODE OF CONDUCT FOR MEMBERS

Colchester Borough Council

Code of Conduct for Members

PART 1 GENERAL PROVISIONS

Introduction and interpretation

This Code of Conduct was adopted by the full council at its meeting on 25 June 2012 and is effective from 1 July 2012.

As a Member you are a representative of Colchester Borough Council (“the Authority”) and the public will view you as such. Therefore, your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.

This Code is consistent with the “Nolan Principles” which are set out in Appendix 1 and the provisions of S29 (1) Localism Act 2011.

In this Code-

“meeting” means any meeting of:

- (a) the Authority
- (b) the Executive of the Authority
- (c) any of the Authority’s or its Executive’s committees, sub-committees, joint committees, joint sub-committees or areas committees whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members
- (d) any briefings by officers and site visits organised by the Authority “relevant period” means the period of 12 months ending with the day on which you give notification to the Authority’s monitoring officer of any disclosable pecuniary interests you had at the time of the notification.

“profit or gain” includes any payments or benefits in kind which are subject to Income Tax.

“beneficial interest” means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale.

“Member” includes a co-opted member.

1. Who does the Code apply to?

- (1) This Code applies to all Members of the Authority including co-opted members.
- (2) It is your responsibility to comply with the provisions of this Code.

2. What does the Code apply to?

- (1) You must comply with this Code whenever you -
 - (a) conduct the business of the Authority, or
 - (b) you are acting as a representative of the Authority.
- (2) This Code has effect in relation to your conduct in your official capacity.
- (3) Where you act as a representative of the Authority –
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

- (1) You must treat others with respect.
- (2) You must uphold the law.
- (3) You must not –
 - (a) do anything which may cause the Authority to breach any of the equality enactments;
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be: –
 - (i) a complainant;
 - (ii) a witness; or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a Member

(including yourself) has failed to comply with the Authority's code of conduct; or

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

4. Confidential Information

You must not –

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is –
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the Authority;
- (b) prevent another person from gaining access to information to which that person is entitled by law.

5. Conferring an advantage or disadvantage

You must -

- (a) not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) when using or authorising the use by others of the resources of the Authority -
 - (i) act in accordance with the Authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes);
- (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

PART 2 MEMBERS INTERESTS

6. Disclosable Pecuniary Interests¹

6.1 You have a Disclosable Pecuniary Interest in any business of the Authority if it is of a description set out in 6.2 below and is either:

- (a) An interest of yours; or
- (b) An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner ("known as Relevant Persons").

6.2 A Pecuniary Interest is an interest which relates to or is likely to affect:

- (a) Any employment, office, trade, profession or vocation carried on by you or a Relevant Person for profit or gain;
- (b) Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) Any contract for goods, services or works which has not been fully discharged between you or a Relevant Person and the Authority or a body in which you or they have a beneficial interest;
- (d) A beneficial interest in any land in the Authority's area
- (e) A licence of any land in the Authority's area (alone or jointly with others) that you or a Relevant Person occupy for a month or longer
- (f) any tenancy where to your knowledge (i) the landlord is the Authority and (ii) the tenant is a body in which you or a Relevant Person has a beneficial interest
- (g) Any beneficial interest in securities of a body where –
 - (i) that body (to your knowledge) has a place of business or land in the area of the Authority and
 - (ii) either:

¹ The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the pecuniary interests specified for the purposes of Chapter 7 of Part 1 Section 30(3) of the Localism Act 2011

- (aa) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- (bb) the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class.

7. Other Pecuniary Interests

You have a pecuniary interest in any business of the Authority where it relates to or is likely to affect:

- (a) any person or body who employs or has appointed you;
- (b) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 6.2.(g) which has been fully discharged within the last 12 months;

8. Non-Pecuniary Interests

8.1 You have a non-pecuniary interest in any business of the Authority where it relates to or is likely to affect -

- (a) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
- (b) any body –
 - (i) exercising functions of a public nature;
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); of which you are a member or in a position of general control or management;
- (c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
- (d) a decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing of a relevant person to a greater extent than the majority of:-

- (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
- (ii) (in all other cases) other council tax payers, ratepayers or inhabitants of the Authority's area.

9. Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)

- 9.1 Subject to sub-paragraphs 9.2 to 9.3, where you have a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.
- 9.2 Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the Relevant Person's Interest.
- 9.3 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 but by virtue of paragraph 12 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest you need not disclose the nature of the interest to the meeting.
- 9.4 Where you have a Pecuniary Interest in any business of the Authority and a function of the Authority may be discharged by you acting alone in relation to that business, you must ensure you notify the Authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.
- 9.5 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

10. Effect of Interests on participation

10.1 Disclosable Pecuniary Interests

- (a) If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:
 - (i) You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting.
 - (ii) You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Authority's proper officer.
- (b) If you have a Disclosable Pecuniary Interest in any business of the Authority you must not:
 - (i) exercise executive functions in relation to that business; and
 - (ii) seek improperly to influence a decision about that business
- (c) If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself).

10.2 Other Pecuniary Interests

If you have another Pecuniary Interest in any business of the Authority which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement in the public interest and you are present at a meeting of the Authority at which such business is to be considered or is being considered you must:

- (a) disclose the existence and nature of the interest in accordance with paragraph 9.1 (but subject to paragraph 9.3) and;
- (b) withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from the Authority's proper officer.

PART 3 REGISTER OF MEMBERS INTERESTS

11. Registration of Members' Interests

Subject to paragraph 12, you must, within 28 days of –

- (a) this Code being adopted by or applied to the Authority; or
- (b) your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the Authority

register in the Authority's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- (i) Disclosable Pecuniary Interests as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time.
- (ii) Pecuniary Interests referred to in paragraph 7 that you have.

Subject to paragraph 12, you must within 28 days of becoming aware of any new Disclosable Pecuniary Interest as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner or change to any Disclosable Pecuniary Interest registered under paragraphs 11.(a) (i) or (ii) above by providing written notification to your authority's Monitoring Officer.

12. Sensitive Information

- 12.1 Where you have a Disclosable Pecuniary Interest referred to in paragraph 6 or pecuniary interest referred to in paragraph 7 and the nature of the interest is such that you and the Authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the Authority's Register then copies of the register available for inspection and any published version of the Register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.
- 12.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 12.1 is no longer sensitive information, notify the Authority's monitoring officer.

- 12.3 In this Code “sensitive information” means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

13. Register of Gifts and Hospitality

- 13.1 You must within 28 days of receipt, notify the Authority’s monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the Authority.
- 13.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 13.3 This duty to notify the monitoring officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

14. Review of Code

- 14.1 This Code will be kept under annual review.

THE NOLAN PRINCIPLES
and Section 28(1) of The Localism Act 2011

Selflessness

To serve only the public interest and never improperly confer an advantage or disadvantage on any person

Integrity

Not to place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour

Objectivity

Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.

Accountability

To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.

Openness

To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

Honesty

Not to place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

Leadership

Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.



Colchester Borough Council
Governance and Audit Committee
Councillor Code of Conduct

Arrangements for dealing with complaints

1. Introduction

- 1.1 These “Arrangements” came into effect on 1 July 2012 detail the process for making a complaint that an elected or co-opted member of Colchester Borough Council or of a parish council, town council or community council (referred to as a parish council in this document) within the Borough of Colchester has failed to comply with the Councillors’ Code of Conduct. It also sets out how the Borough Council will deal with allegations of a failure to comply with the Councillors’ Code of Conduct.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Borough Council must have in place “Arrangements” under which allegations that a member or co-opted member of the Borough Council or of a parish council within the Borough of Colchester, has failed to comply with Councillors’ Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such Arrangements must provide for the Borough Council to appoint at least 1 Independent Person, whose views must be sought by the Borough Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Borough Council at any other stage, or by a member or a member or co-opted member of a parish council against whom an allegation has been made. Both members and co-opted members are referred to as Councillors in this document for ease of reference.

2. The Code of Conduct

- 2.1 The Borough Council has adopted a Code of Conduct for Councillors, which is published on the Borough Council’s website.
www.colchester.gov.uk/standards
- 2.2 Each Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect

any website operated by the Parish Council or request the parish clerk to allow you to inspect the Parish Council's Code of Conduct.

3. Making a complaint

- 3.1 If you wish to make a complaint, please email :
andrew.weavers@colchester.gov.uk or write to:

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

- 3.2 The Monitoring Officer is a senior officer of the Borough Council who has statutory responsibility for maintaining the register of Councillors' interests and who is responsible for administering the system in respect of complaints of Councillor misconduct.
- 3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the Borough Council's website, next to the Code of Conduct.
- 3.4 Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the Councillor against whom you make the complaint, without your prior consent.
- 3.5 The Borough Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 3.6 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it and will keep you informed of the progress of your complaint.
- 3.7 The Complaints Procedure Flowchart is attached at Appendix 1.
- 3.8 The Borough Council has agreed a Press Policy in relation to complaints made against Councillors and this is attached at Appendix 2.

4. Will your complaint be investigated?

- (1) The Monitoring Officer will review every complaint received and, may consult with the Independent Person before taking a decision as to whether it:
 - (a) merits no further investigation; or
 - (b) merits further investigation; or
 - (c) should be referred to the Governance and Audit Committee,
- (2) This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the Borough Council's Assessment Criteria contained at Appendix 3. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. Where the Monitoring Officer requires additional information in order to come to a decision, he/she may come back to you for such information and may request information from the Councillor against whom your complaint is directed.
- (3) Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.
- (4) In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Councillor accepting that their conduct was unacceptable and offering an apology, or other remedial action by the Authority. Where the Councillor or the Authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.
- (5) If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.

5. How is the investigation conducted?

- (1) The Borough Council has adopted a procedure for the investigation of allegations, which is attached as Appendix 4 to these Arrangements.

- (2) If the Monitoring Officer decides that a complaint merits further investigation, they may appoint an Investigating Officer, who may be another senior officer of the Borough Council, an officer of another Authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether they need to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen, and who needs to be interviewed.
- (3) The Investigating Officer or Monitoring Officer will normally write to the Councillor against whom you have complained and provide them with a copy of your complaint and ask the Councillor to provide their explanation of events, and to identify what documents are required and who needs to be interviewed. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the Councillor might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Councillor, or delay notifying the Councillor until the investigation has progressed sufficiently.
- (4) At the end of their investigation, the Investigating Officer or Monitoring Officer will produce a draft report ("the Investigation Report") and will send copies of that draft report, in confidence, to you and to the Councillor concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.
- (5) Having received and taken account of any comments which you may make on the draft Investigation Report. Where an Investigating Officer has been appointed the Investigating Officer will send their final report to the Monitoring Officer.

6. What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

- (1) If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and, if satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Councillor concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that no further action is required, and give you both a copy of the Investigation Final Report.

- (2) If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report.

7. What happens if the Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

- (1) If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing before the Hearings Sub-Committee or in consultation with the Independent Person seek an informal resolution.

(a) Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Councillor accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Borough Council's Governance and Audit Committee (and the Parish Council) for information but will take no further action.

(b) Hearing

If the Monitoring Officer considers that informal resolution is not appropriate, or the Councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Hearings Sub-Committee which will conduct a hearing before deciding whether the Councillor has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Councillor.

The Borough Council has agreed a procedure for hearing allegations, which is attached as Appendix 5 to these Arrangements.

At the hearing, the Investigating Officer or the Monitoring Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Hearings Sub-Committee. The Councillor will then have an opportunity to give their evidence, to call witnesses and to make representations to the Hearings Sub-Committee as to why they consider that they did not fail to comply with the Code of Conduct.

The Hearings Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the Councillor did not fail to comply with the Code of Conduct, and dismiss the complaint. If the Hearings Sub-Committee concludes that the Councillor did fail to comply with the Code of Conduct, the Chair will inform the Councillor of this finding and the Hearings Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the Councillor's failure to comply with the Code of Conduct. In doing this, the Hearings Sub-Committee will give the Councillor an opportunity to make representations to the Hearings Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8. What action can the Hearings Sub-Committee take where a Councillor has been found to have failed to comply with the Code of Conduct?

- 8.1 The Borough Council has delegated to the Hearings Sub-Committee its powers to take action in respect of individual Councillors as may be necessary to promote and maintain high standards of conduct.

Accordingly, the Hearings Sub-Committee may: -

- (a) Report its findings to Council (or to the Parish Council) for information;
- (b) Recommend to Council (or to the Parish Council) that the Councillor be issued with a formal censure or be reprimanded
- (c) Recommend to the Councillor's Group Leader (or in the case of ungrouped Councillors, recommend to Council or to Committees) that

the Councillor be removed from any or all Committees or Panels of the Council;

- (d) Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - (e) Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Councillor;
 - (f) Recommend to Council to remove (or recommend to the Parish Council that the Councillor be removed) from all outside appointments to which they has been appointed or nominated by the Council (or by the Parish Council);
 - (g) Recommend to Council to withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the Councillor by the Council, such as a computer, website and/or email and internet access; or
 - (h) Recommend to Council to exclude (or recommend that the Parish Council exclude) the Councillor from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Panel meetings.
- 8.2 The Hearings Sub-Committee has no power to suspend or disqualify a Councillor or to withdraw a Councillor's basic allowance or any special responsibility allowances.
- 8.3 Any actions recommended by the Hearings Sub-Committee should be proportionate and commensurate with the circumstances of the particular case.

9 What happens at the end of the hearing?

- 9.1 At the end of the hearing, the Chair will state the decision of the Hearings Sub-Committee as to whether the Councillor failed to comply with the Code of Conduct and as to any actions which the Hearings Sub-Committee resolves to take.
- 9.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Sub-Committee, and send a copy to you, to the Councillor (and to the Parish Council), make that decision notice available for public

inspection and report the decision to the next convenient meeting of the Council.

10 Who are the Hearings Sub-Committee?

- 10.1 The Sub-Committee comprises Councillors who are members of the Governance and Audit Committee.
- 10.2 The Governance and Audit Committee has decided that it will comprise a maximum of five Councillors and will comprise Councillors drawn from all political groups. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council. If the Councillor complained about is a member of a Parish Council a parish Councillor who is a co-opted member of the Governance and Audit Committee will also be invited to attend the Sub-Committee.
- 10.3 An Independent Person will also be invited to attend all meetings of the Hearings Sub-Committee and their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the Councillor's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who are the Independent Persons?

- 11.1 The Independent Persons are persons who has applied for the post following advertisement of a vacancy for the post and is appointed by a positive vote from a majority of all the members of the Borough Council.
- 11.2 A person cannot be "independent" if they:
 - (a) are, or have been within the past 5 years, a member, co-opted member or officer of the Borough Council;
 - (b) (are or have been within the past 5 years, a member, co-opted member or officer of a parish council within the Borough of Colchester), or
 - (c) are a relative or close friend, of a person within paragraph (a) or (b) above. For this purpose, a "relative" means:
 - (i) spouse or civil partner;

- (ii) living with the other person as husband and wife or as if they were civil partners;
- (iii) grandparent of the other person;
- (iv) a lineal descendent of a grandparent of the other person;
- (v) a parent, sibling or child of a person within paragraphs (a) or (b); above or
- (vi) a spouse or civil partner of a person within paragraphs (iii), (iv) or (v) above; or
- (vii) living with a person within paragraphs (iii), (iv) or (v) above as husband and wife or as if they were civil partners.

12. Revision of these Arrangements

The Borough Council may by resolution agree to amend these Arrangements, and has delegated to the Chair of the Hearings Sub-Committee the right to depart from these Arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13. Appeals

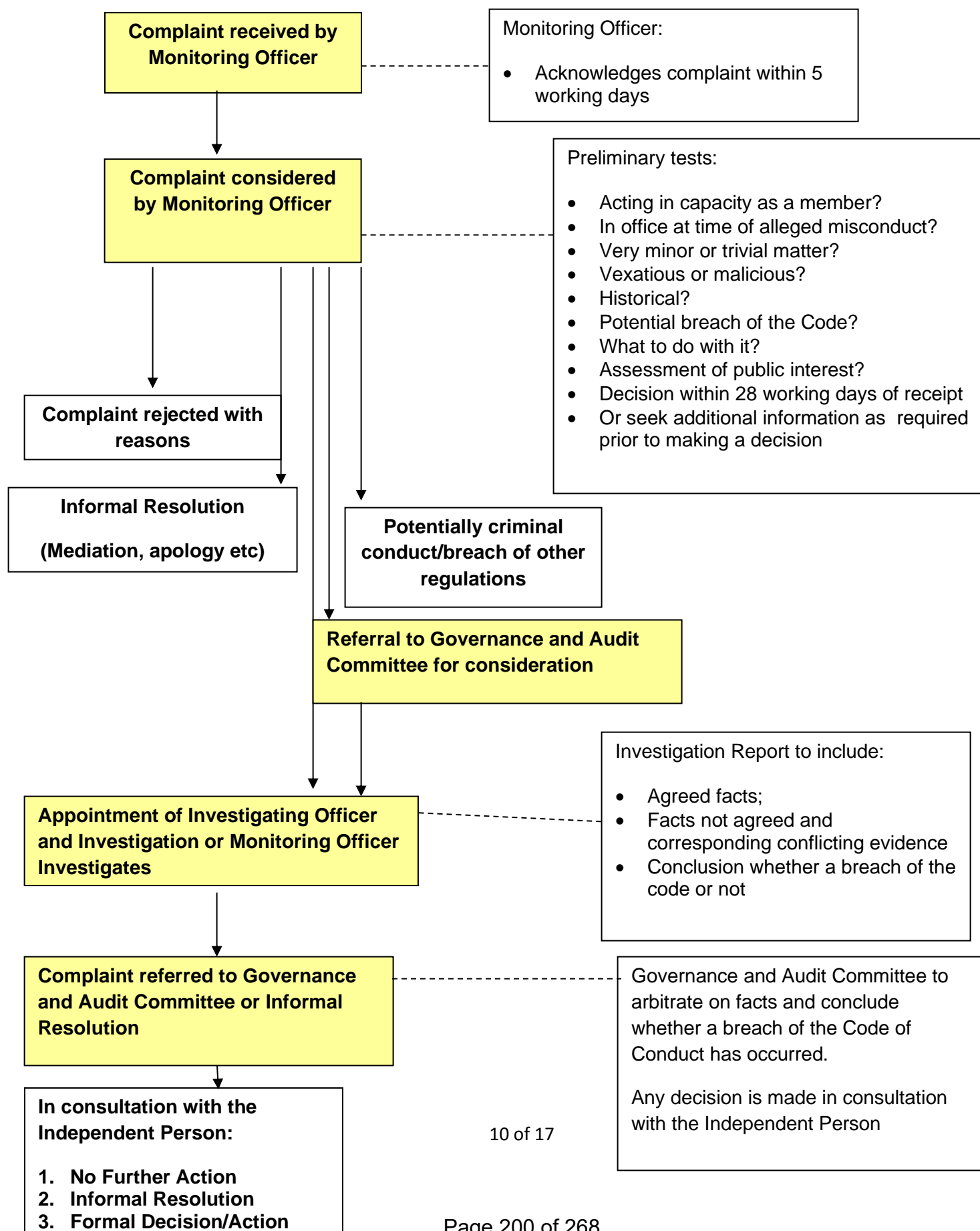
13.1 There is no right of appeal for you as complainant or for the Councillor against a decision of the Monitoring Officer or of the Hearings Sub-Committee.

13.1.1 If you feel that the Borough Council has failed to deal with your complaint properly, you may make a complaint to the Local Government and Social Care Ombudsman.

14. Review

These Arrangements will be kept under annual review by the Governance and Audit Committee.

Complaints Procedure Flowchart



Colchester Borough Council

Press Policy

Complaints against Members

This Policy sets out how the Borough Council will respond to press enquiries into a complaint made against Councillor(s). This includes Borough Councillors, Parish, Town and Community Councillors.

We like to be as helpful as possible to the press and we will confirm, when requested by a journalist:

- the name of a Councillor(s) involved in an ongoing or past investigation
- the type of person who made the allegation – whether they are a member or Officer of the Authority, or a member of the public
- part of the Code of Conduct potentially breached
- whether the case was referred for investigation and, if not, the reason it was not referred
- approximate dates of when the allegation was received and the date of when a decision was made on whether or not to investigate
- the outcome of any investigation, on issue of the final report

Please note that we will only respond to queries about specific Councillors.

We will not comment on complaints received until a decision has been made on whether a complaint will be investigated; we allow three working days from the date of that decision before confirming it to the press.

We will confirm the outcome of an investigation three working days after the final report has been issued. This policy ensures that the relevant parties involved in the complaint and investigation are notified before the press.

We will always stress that a complaint is just that: while an investigation is ongoing, no decision is made regarding a Councillor's guilt or otherwise.

Colchester Borough Council

STANDARDS COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; e.g. that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
5. It is about someone who is no longer a Councillor; or
6. There is insufficient information available for a referral; or
7. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc; or
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
9. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Governance and Audit Committee; or
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
11. Where the Councillor complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

Complaints which may be referred to the Governance and Audit Committee

1. It is serious enough, if proven, to justifying the range of actions available to the Governance and Audit Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or

3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to investigate; or
4. The complaint is about a high-profile Councillor such as the Leader of the Council and it would be difficult for the Monitoring Officer to investigate; or
5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him to investigate.

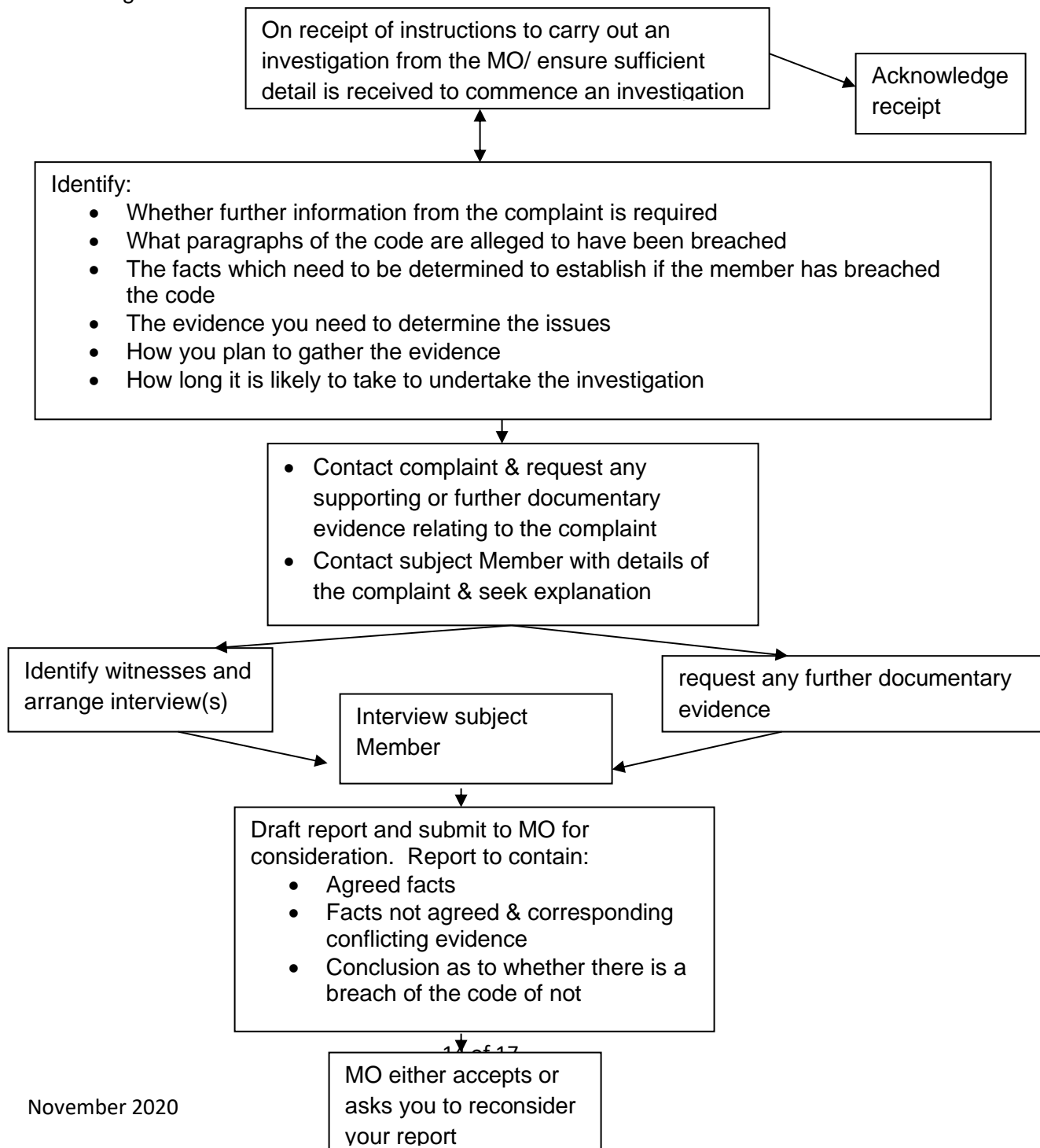
Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and Councillors' time. This is an important consideration where the complaint is relatively minor.

STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

Investigation Procedure

You should maintain a written record to demonstrate what was considered at the start of each investigation and plan how you intend to carry out the investigation, the paragraphs of the Code that may have been breached, the facts you need to determine to establish, the evidence you will need, how you plan to gather the evidence and how long it will take to conclude your investigation. Remember there is no provision in the Localism Act 2011 compelling Members or witnesses to co-operate with your investigation.

A written Investigation Report will need to be prepared for consideration by the Council's Monitoring Officer.

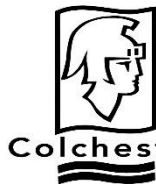


Colchester Borough Council
GOVERNANCE AND AUDIT COMMITTEE
HEARINGS SUB-COMMITTEE PROCEDURE

<u>Item No.</u>	<u>Procedure</u>
	<u>Quorum</u>
1.	<p>1.1. Three members must be present throughout the hearing to form a quorum.</p> <p>1.2. Where the complaint refers to a Parish Councillor a non-voting Parish member of the Governance and Audit Committee may be present.</p> <p>1.3. An Independent Person shall also be invited to attend.</p> <p>1.4. The Sub-Committee shall nominate a Chair for the meeting</p>
2.	<u>Opening</u>
	<p>2.1 The Chair explains the procedure for the hearing and reminds all parties to turn off mobile phones etc.</p> <p>2.2 The Chair asks all present to introduce themselves.</p> <p>2.3 The Councillor will be asked whether they wish to briefly outline their position.</p>
3.	<u>The Complaint</u>
	<p>3.1 The Investigating Officer shall be invited to present their report including any documentary evidence or other material (and to call witnesses as required by the Investigating Officer). This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.</p> <p>3.2 The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer. (This is the Councillor's opportunity to ask questions rising from the Investigators report and not to make a statement).</p>

	3.3	Members of the Sub-Committee may question the Investigating Officer upon the content of their report and/or any witnesses called by the Investigating Officer
4.	<u>The Councillor's case</u>	
	4.1	The Councillor against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required by the Councillor or their representative).
	4.2	The Investigating Officer may question the Councillor and/or any witnesses.
	4.3	Members of the Sub-Committee may question the Councillor and /or any witnesses.
5.	<u>Summing Up</u>	
	5.1	The Investigating Officer may sum up the Complaint.
	5.2	The Councillor (or their representative) may sum up their case.
6.	<u>Decision</u>	
	6.1	Members of the Sub-Committee will deliberate in private to consider the complaint in consultation with the Independent Person prior to reaching a decision.
	6.2	Upon the Sub-Committee's return the Chair will announce the Sub-Committee's decision in the following terms: -
	6.2.1	The Sub-Committee decides that the Councillor has failed to follow the Code of Conduct; or
	6.2.2	The Sub-Committee decides that the Councillor has not failed to follow the Code of Conduct
	6.3	The Sub-Committee will give reasons for their decision
	6.4	If the Sub-Committee decides that the Councillor has failed to follow the Code of Conduct the Sub-Committee will consider any representations from the Investigator and/or the Councillor as to:
	6.4.1	Whether any action should be taken and
	6.4.2	What form any action should take

	<p>6.5 The Sub-Committee will then deliberate in private to consider what action if any should be taken in consultation with the Independent Person.</p> <p>6.6 On the Sub-Committee's return the Chair will announce the Sub-Committee's decision (in relation to a Parish Councillor a recommendation to the Parish Council).</p> <p>6.7 The Sub-Committee will consider whether it should make any recommendations to the Borough Council (or in relation to a Parish Councillor to the Parish Council) with a view to promoting high standards of conduct among Councillors.</p> <p>6.8 The Chair will confirm that a full written decision shall be issued within 7 working days following the hearing and that the Sub-Committee's findings to be published.</p>



Governance and Audit Committee

Item
11

Colchester 24 November 2020

Report of **Monitoring Officer**

Author **Andrew Weavers**
☎ 282213

Title **Review of Local Code of Corporate Governance**

Wards affected Not applicable

1. Executive Summary

- 1.1 This report requests the Committee to review the Local Code of Corporate Governance for 2020/21. The Local Code of Corporate Governance is how the Council demonstrates that its structures comply with the recognised principles of good governance.
- 1.2 The report also recommends that Full Council includes the Code in its Policy Framework which comprises all of the Authority's key policies.

2. Recommended Decision

- 2.1 To review the updated Local Code of Corporate Governance for 2020/21.
- 2.2 To recommend to Full Council that it be approved for inclusion in the Council's Policy Framework.

3. Background

- 3.1 In 2007 CIPFA (The Chartered Institute of Public Finance and Accountancy) and SOLACE (The Society of Local Authority Chief Executives) issued "Delivering Good Governance in Local Authorities", a guide to ensuring that local authorities are appropriately governed. This was updated in December 2012.
- 3.2 Governance is defined as the systems and processes, and cultures and values, by which an organisation is directed and controlled and through which it accounts to, engages with and, where appropriate, leads their communities. It is about how Colchester Borough Council ensures that it is doing the right things, in the right way, for the right people, in a timely, inclusive, open and accountable manner
- 3.3 The Council strives to meet the highest standards of corporate governance to help ensure it meets its objectives. Councillors and Officers are responsible for putting in place proper arrangements for the governance of the Council's affairs and the stewardship of the resources at its disposal.
- 3.4 Therefore a Local Code of Corporate Governance has been developed to ensure that the Council complies with the principles set out in the CIPFA/SOLACE guidance. The Local Code is reviewed annually, to ensure that the Council is still satisfying the principles, and forms part of the Council's Policy Framework.

- 3.5 The guidance identifies six Core Principles against which local authorities should review their existing corporate governance arrangements and develop and maintain a local code of governance. The principles are;
- Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area;
 - Councillors and officers working together to achieve a common purpose with clearly defined functions and roles;
 - Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour;
 - Taking informed and transparent decisions which are subject to effective scrutiny and managing risk;
 - Developing the capacity and capability of members and officers to be effective; and
 - Engaging with local people and other stakeholders to ensure robust public accountability.
- 3.6 The six core principles each have a number of supporting principles, which in turn have a range of specific requirements that apply across the range of Council business.
- 3.7 The Local Code, and the Council's compliance with the principles, have been reviewed, and attached at Appendix 1 is the updated Local Code of Corporate Governance for 2020/21. This sets out the six principles and elaborates on how the Council is meeting them, what source documents or processes evidence this and in addition highlights any further or ongoing work. This in turn links into the Council's Annual Governance Statement.
- 3.8 The Local Code has been updated to reflect the implementation of the Council's two new panels - Environment & Sustainability and Policy, the engagement with the community via the Digital Access programme, development of virtual training for officers and the Coronavirus response and recovery actions. Otherwise there have been no significant changes to the Local Code following the review, and it is considered still fit for purpose.

4. Strategic Plan References

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

5. Publicity Considerations

- 5.1 The Local Code of Corporate Governance will be published on Corporate Governance section of the Council's website.

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

- 6.1 None.



Code of Corporate Governance 2020/21

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

November 2020

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THE PRINCIPLES OF CORPORATE GOVERNANCE

- Core Principle 1** *Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area.*
- Core Principle 2** *Members and officers working together to deliver the objectives of the Strategic Plan (the common purpose) with clearly defined functions and roles.*
- Core Principle 3** *Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.*
- Core Principle 4** *Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.*
- Core Principle 5** *Developing the capacity and capability of members and officers to be effective.*
- Core Principle 6** *Engaging with local people and other stakeholders to ensure robust public accountability.*

CODE OF CORPORATE GOVERNANCE

INTRODUCTION

“Governance is about how local government bodies ensure that they are doing the right things, in the right way for everyone, in a timely, inclusive, open, honest and accountable manner.

It comprises the systems and processes, and cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and where appropriate, lead their communities”.

Delivering Good Governance in Local Authorities (CIPFA/SOLACE 2007)

The CIPFA/SOLACE guidance “Delivering Good Governance in Local Authorities” identified six Core Principles against which local authorities should review their existing corporate governance arrangements and develop and maintain a local code of governance. These principles are:

- 1. Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area*
- 2. Members and officers working together to achieve a common purpose with clearly defined functions and roles*
- 3. Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour*
- 4. Taking informed and transparent decisions which are subject to effective scrutiny and managing risk*
- 5. Developing the capacity and capability of members and officers to be effective*
- 6. Engaging with local people and other stakeholders to ensure robust public accountability.*

This Code of Governance has been prepared in accordance with the Guidance and will be reviewed by the Governance and Audit Committee on an annual basis.

Additionally authorities are required to prepare and publish an Annual Governance Statement in accordance with this framework under Regulation 4(2) of the Accounts and Audit (Amendment) (England) Regulations 2011. The Annual Governance Statement is a key corporate document. The Chief Executive and the Leader of the Council have joint responsibility as signatories for its accuracy and completeness.

PRINCIPLE ONE

Core Principle 1 – Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area

Our aims in relation to focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area are to:

- 1.1 Exercise strategic leadership by developing and clearly communicating the authority's purpose, vision and its intended outcome for citizens and service users
- 1.2 Ensure users receive a high quality service whether directly, or in partnership, or by commissioning
- 1.3 Ensure that the authority makes best use of resources and that tax payers and service users receive excellent value for money

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
1.1.1 Develop and promote the Council's purpose and vision	<p>Strategic Plan 2018-21 (approved by Full Council February 2018 following consultation and focus groups, with 20 priorities now set out under four new themes) and action plan. This was superseded by the Strategic Plan 2020-23 in October 2020, with full-year results against the 2018/19 and 2019/20 action plans here.</p> <p>The Council's commercial programme, including the set-up of three trading subsidiaries – Amphora Trading, Homes and Energy – within the Colchester Commercial (Holdings) Ltd (CCH) holding company.</p> <p>Partnership working with local, regional and national stakeholders.</p> <p>Service Plans.</p> <p>ICT, Communication and Technology Strategy.</p> <p>Council website – www.colchester.gov.uk.</p>	<p>Development and monitoring of actions to support delivery of the Strategic Plan 2020-23, approved by Full Council October 2020, including spending priorities.</p> <p>The development of the CCH/Amphora companies, and the implementation of their high-level goals, financial targets and management agreements.</p> <p>Encouraging self-serve and online options to maximise use of resources</p> <p>Council's Research and Change Team review customer demand and feedback,</p>

	<p>Local Research and Statistics data on website. The Constitution and its committees and panels. Core values of 'customer, business and culture' with identified attitudes and behaviours Key Performance Indicators (KPIs) reported and published to show achievements against targets The Council's strategies and policies. Awards and accreditations. Publication Scheme/Transparency Code. The 'Service Futures' programme which took a fundamental review of Council services and how they are delivered.</p>	<p>statistics and research to support business improvement.</p> <p>Council website – continuing its development to support the Council's vision and objectives, including focus on online self-serve options.</p> <p>Digital Access Team – external funding secured to help customers get online so they can access self-serve options and information to support themselves and the digital opportunities available if customers use the web.</p>
1.1.2 Review on a regular basis the Council's vision for the local area and its impact on the authority's governance arrangements	<p>Strategic Plan and its Action Plan. The Constitution and its committees and panels. Medium Term Financial Strategy and Capital Programme. Local Code of Corporate Governance. Annual Governance Statement and Assurance Framework. Risk Register.</p>	<p>Development and monitoring of actions to support delivery of the Strategic Plan 2020-23, approved by Full Council October 2020, including spending priorities.</p> <p>Local Code of Corporate Governance updated as required by CIPFA Guidance</p> <p>The Policy Panel was introduced in July 2020 to provide legislative, improvement and policy advice to Cabinet and Portfolio Holders on issues that may affect executive functions. The Panel considers issues at the request of Cabinet and Portfolio Holders and must seek approval from Cabinet on whether and how issues</p>

		<p>proactively identified by the Panel are examined.</p> <p>The Environment and Sustainability Panel was also introduced in July 2020, on the same basis as the Policy Panel, but to provide Colchester's response to the climate emergency.</p>
In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
1.1.3 Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all parties	<p>Strategic Plan 2018-21</p> <p>Partners were key contributors in the Peer Challenge</p> <p>Partnership Strategy</p> <p>Council praised by All-Party Parliamentary Group Inquiry into partnership working</p> <p>Safer Colchester Partnership – annual plan, website, strategic and operational groups</p> <p>Working with a range of partners to provide customer-facing services.</p>	<p>Colchester Ambassadors – key borough businesses and their promotional work.</p> <p>Crime and Disorder Committee examines the work of the Safer Colchester Partnership.</p>
1.1.4 Publish an annual report on a timely basis to communicate the authority's activities and achievements, its financial position and performance	<p>Strategic Plan actions and monitoring of delivery</p> <p>Statement of Accounts</p> <p>Council's website www.colchester.gov.uk</p> <p>Awards and accreditations, Performance and Improvement sections of the website</p> <p>Performance Management Board</p> <p>ICT, Communication and Technology Strategy</p> <p>The Council's Forward Plan</p> <p>Publication Scheme/Transparency Code</p> <p>All Annual Reports into one place on the website for improved transparency and open access.</p>	

	An online Datashare 'library' gives access to view and download a range of council databases and information	
1.2.1 Decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available	<p>Customer – Portfolio Holder on the Cabinet Performance reporting to Senior Management , Scrutiny Panel and the Cabinet Consultation – “Consultations, Research and Statistics” section on website</p> <p>Mosaic and other customer research tools</p> <p>Annual Monitoring Report</p> <p>External Audit annual audit letter and recommendations</p> <p>Local Government and Social Care Ombudsman – Annual Review Letter</p> <p>Review of Complaints Procedure (to Committee October 2018)</p>	<p>Research and Change Team review customer demand and feedback, statistics and research to encourage services to make informed choices based on fact, and support process improvement work council-wide.</p> <p>‘Customer’ strand of the Council’s Customer Service Standard.</p> <p>‘Customers and Partnerships’ strand of Senior Management Team meetings – this meeting aims to ensure we are focused on our customers and looking for partnership opportunities.</p> <p>Feedback tab on webpages</p> <p>‘Help us get it right’ options for customers</p>

In order to achieve our aims we have/will:	Source documents/processes	Further work ongoing
1.2.2 Put in place effective arrangements to identify and deal with failure in service delivery	Performance reporting and performance indicators Complaints Procedure Internal Audit Process and annual work programme Chief Operating Officer Performance Management Board External Auditor's annual audit letter and recommendations The Constitution, its committees and panels Risk Management Strategy Ethical Governance Policies Annual Governance Statement Action Plan Review of Complaints Procedure	Performance Management Board addresses and manages performance and financial issues and meets monthly. Preparation for Budget Group is also managed here. <u>'Help us get it right'</u> options for customers
1.3.1 Decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions.	Performance Reporting Performance Management Board Environmental Sustainability Strategy/Actions External Auditor's annual audit letter and recommendations Statement of Accounts Annual Treasury Strategy Statement Parking Partnership annual report Report templates – financial considerations Monitoring of commercial performance Publication Scheme/Transparency Code Sustainability assessments for Local Plan	Building a sustainable commercial services arm for the Council – CCHL/Amphora trading companies. The Council has declared a Climate Emergency and has established an Environment and Sustainability Committee. This is an advisory Panel to Cabinet looking at how the Council should respond to the climate emergency.

		All Council decision making reports require an assessment of the environmental and sustainability implications of the decision.
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PRINCIPLE TWO

Members and officers working together to deliver the objectives of the Strategic Plan (the common purpose) with clearly defined functions and roles.

Our aims in relation to Members and Officers working together to achieve a common purpose with clearly defined functions and roles are to:

- 2.1 Ensure effective leadership throughout the authority and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function
- 2.2 Ensure that a constructive working relationship exists between authority members and officers and the responsibilities of members and officers are carried out to a high standard
- 2.3 Ensure relationships between the authority, its partners and the public are clear so that each knows what to expect of the other

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.1.1 Set out a clear statement of the respective roles and responsibilities of the executive and of the executive's members individually and the authority's approach towards putting this into practice	Constitution (Cabinet terms of reference) Record of decisions and supporting materials Member/Officer Protocol Member Training and Development Senior officer training Member role profiles Committee and Councillor area on the Council website Publication Scheme/Transparency Code	The Constitution will continue to be reviewed on a rolling basis.
2.1.2 Set out a clear statement of the respective roles and responsibilities of other authority members, members generally and of senior officers	Constitution (Statutory Officer positions, Terms of Reference for Committees, Member roles) Protocols on planning, the representational role of Members, Chairmen, Officer/Members Schemes of Delegation Terms and Conditions of Employment Member role profiles	.

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.2.2 Make the chief executive or equivalent responsible and accountable to the authority for all aspects of operational management	Development of the Committee and Councillor area on the Council website provides more complete and easily accessible information about Councillors and the Council's decision making processes. Chief Executive designated Head of Paid Service Constitution (Head of Paid Service responsibilities) Conditions of Employment Schemes of Delegation Job Accountability Statement /Person Specification Signature on Annual Governance Statement	The Constitution will continue to be reviewed on a rolling basis. Support for this from Chief Operating Officer
2.2.3 Develop protocols to ensure that the leader and chief executive (or equivalent) negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained	Constitution Member/Officer Protocol Regular 1:2:1s	The Constitution will continue to be reviewed on a rolling basis. The development of the CCHL/Amphora companies, and the implementation of their high-level goals, financial targets and management agreements.
2.2.4 Make a senior officer (usually the section 151 officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control	Strategic Finance Manager is the Council's Chief Financial Officer (S151 Officer). Constitution Job Accountability Statement / Person Specification S151 Officer Protocol Report template includes financial implications before report considered by Members Officer Pay Policy agreed by Full Council	

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.2.5 Make a senior officer (other than the responsible financial officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes, regulations are complied with (usually the Monitoring Officer)	Strategic Governance Manager is the Council's Monitoring Officer Monitoring Officer Protocol Job Accountability Statement / Person Specification Report template requires that Legal Services are consulted before a report is considered by Members	
2.3.1 Develop protocols to ensure effective communication between members and officers in their respective roles	Member / Officer Protocol Planning Procedures Code of Practice Outside Bodies advice given to Members Member and Officer Codes of Conduct	Portfolio Holder briefings
2.3.2 Set out the terms and conditions for remuneration of members and officers and an effective structure for managing the process including an effective remuneration panel (if applicable)	Pay and conditions policies and practices Independent Remuneration Panel Terms of Reference and Reports Regular liaison meeting with Unison Officer Pay Policy agreed by Full Council	
2.3.3 Ensure that effective mechanisms exist to monitor service delivery	Performance reporting and performance indicators Complaints Procedure Assistant Directors monitoring Service Plans Performance Management Board Performance management system Scrutiny Panel Annual Governance Statements for the Council, Colchester and Ipswich Museums Service and North Essex Parking Partnership Publication Scheme/Transparency Code Datashare	Customers and Partnerships' strand of Senior Management Team meetings Customer insight work

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.3.4 Ensure that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated	Strategic Plan underpinned by a review of all existing consultation work. Medium Term Financial Strategy Performance reporting and indicators Council Website ICT, Communication and Technology Strategy News releases, e-newsletters and social media Customer insight groups Service Reviews	Policy Panel set up to provide legislative, improvement and policy advice to Cabinet and Portfolio Holders on issues that may affect executive functions. Environment and Sustainability Panel set up on the same basis as the Policy Panel, but to provide Colchester's response to the climate emergency. Cabinet identifying and resourcing new strategic priorities.
2.3.5 When working in partnership ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the authority	Constitution Individual Partnership Agreements Service Level Agreements Advice given to Members in relation to outside bodies Partnership Strategy	Scrutiny Panel work programme includes review of partnership arrangements, with presentations from partners at Scrutiny
2.3.6 When working in partnership: <ul style="list-style-type: none"> ensure that there is clarity about the legal status of the partnership ensure that representatives or organisations both understand and make clear to all other partners the extent of their authority to bind their organisation to partner decisions. 	Constitution Individual Partnership Agreements Service Level Agreements Advice given to Members in relation to outside bodies Partnership Strategy Monitoring Officer role and protocol	Customers and Partnerships' strand of Senior Management Team meetings

PRINCIPLE THREE

Core Principle 3 – Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour

Our aims in relation to promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour are to:

- 3.1 Ensuring authority members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance
- 3.2 Ensuring that organisational values are put into practice and are effective

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
3.1.1 Ensure that the authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect	Constitution Chief Executive's and Leader's blog on intranet Performance reporting Governance and Audit Committee has an overall view of conduct issues established by its terms of reference Member and Officer Codes of Conduct Member/Officer Protocol Whistleblowing Policy Anti-Fraud and Corruption Policy Freedom of Information Policy statement and publication scheme Monitoring Officer and S151 Officer Protocols Localism Act Member conduct regime Annual review of Ethical Governance policies Peer Challenge	Staff survey and taking action on its findings Leadership Development Programme led by Executive Management Team Social media, including Yammer Regular staff news bulletins by email Information and videos on intranet Employee Assistance Programme Staff Wellbeing Champions and Mental Health First Aiders

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
3.1.1 continued	Planning Procedures Code of Practice Officer Register of Gifts and Hospitality Officer voluntary register of interests Members' Register of Interests Website and intranet Portfolio Holder monthly sessions with senior officers "Corporate Governance" section on the Council's website bringing all relevant information together under one heading Datashare	
3.1.2 Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocols	Member and Officer Codes of Conduct Performance management system Complaints procedures Anti-fraud and Corruption Policy Member/Officer Protocols Induction for new Members and staff Member Development Programme Officer training on Member/ officer relationship Whistleblowing Policy Information and Communication Technology (ICT) Security Policy Safeguarding Policy Intranet Annual review of Ethical Governance policies Review of Complaints Procedure	Embedding the Council's core values of 'customer, business and culture' with identified attitudes and behaviours. The Job Accountability Statement/Person Specification template highlights the core values to applicants, and the staff appraisal scheme makes how you conduct yourself against the values, attitudes and behaviours to be equally important to achieving the SMART objectives that apply to the role.

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
3.1.3 Put in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice	Member and Officer Codes of Conduct Equality and Diversity training for Members and Officers Financial Procedure Rules, Contract Procedure Rules Ethical Governance policies Registers of Interests (Officers and Members) Services and processes are underpinned by Equality Impact Assessments Equality Objectives Officer induction and training Annual review of Ethical Governance Policies Job Accountability Statements include whether or not a role is politically restricted	Response to consultation on revised Member Code of Conduct.
3.2.1 Develop and maintain shared values including leadership values both for the organisation and staff reflecting public expectations and communicate these with members, staff, the community and partners	Member and Officer Codes of Conduct Strategic Plan, objectives and priorities in place and shared Performance reporting Strategic Plan Action Plan – progress is reported to scrutiny on a half-yearly basis	People Strategy actions (existing) and 2020 update Embedding the Council's core values of 'customer, business and culture' with identified attitudes and behaviours
3.2.2 Put in place arrangements to ensure that procedures and operations are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice	Contract Procedure Rules Ethical Governance Policies Member and Officer Codes of Conduct Monitoring of the above takes place by the Governance and Audit Committee ICT Security Policy Annual reporting to Governance and Audit Committee	

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

PRINCIPLE FOUR

Core Principle 4 – Taking informed and transparent decisions which are subject to effective scrutiny and managing risk

Our aims in taking informed and transparent decisions which are subject to effective scrutiny and managing risk are to:

- 4.1 Being rigorous and transparent about how decisions are taken and listening and acting on the outcomes of constructive scrutiny
- 4.2 Having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs
- 4.3 Ensuring that an effective risk management system is in place
- 4.4 Using their legal powers to the full benefit of the citizens and communities in their areas

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.1.1. Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the organisation's performance overall and of any organisation for which it is responsible	Scrutiny is supported by robust evidence and data analysis Agenda and Minutes Scrutiny Panel Work programme Successful outcome of reviews Ownership of work programme Training for scrutiny chairman and members Scrutiny of partners and joint projects	Scrutiny Panel has continued to meet remotely during the course of the Covid 19 pandemic. Scrutiny Panel work programme includes review of partnership arrangements, with presentations from partners at Scrutiny Specialised training provided to Scrutiny members on the scrutiny of commercial companies and treasury management
4.1.2 Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based	The Constitution, its committees and panels Decision making protocols Record of decisions and supporting materials Report template Decision list published (members) Live streaming of meetings via YouTube	Decision making meetings have been held remotely and have continued through the Covid 19 pandemic. Meetings have been live streamed through YouTube leading to greater public engagement.

	Website	<p>The Policy Panel has been set up to provide legislative, improvement and policy advice to Cabinet and Portfolio Holders on issues that may affect executive functions.</p> <p>The Environment and Sustainability Panel was also introduced in July 2020, on the same basis as the Policy Panel, but to provide Colchester's response to the climate emergency.</p>
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In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.1.3 Put in place arrangements to safeguard members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice	<p>Member and Officer Codes of Conduct</p> <p>Member and Officer Registers of Interests</p> <p>Declaration of Interests at meetings</p> <p>Code of Conduct guidance and training provided to Members and Officers</p> <p>Planning procedures Code of Practice</p> <p>Governance and Audit Committee (responsibility) and Monitoring Officer (reports)</p> <p>Politically restricted posts</p> <p>Ethical Governance Policies, and annual review</p> <p>Secondary Employment Policy</p>	
4.1.4 Develop and maintain an effective Audit Committee (or equivalent) which is independent or make other appropriate arrangements for the discharge of the functions of such a committee	<p>Audit issues within remit of Governance and Audit Committee</p> <p>Member Development Programme</p> <p>Agenda and Minutes</p> <p>The Constitution</p>	Continue to review Member training programme with specific reference to audit and governance

4.1.5 Put in place effective transparent and accessible arrangements for dealing with complaints	Complaints procedure " Help us get it right " on website with full details Annual letter from Local Government and Social Care Ombudsman Customer insight work Social media Review of Complaints Procedure	
4.2.1 Ensure that those making decisions whether for the authority or partnership are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications	Council's Website Report templates dealing with key aspects Report by Assistant Director with necessary technical expertise included Training and professional development Equality Impact Assessments Clear and well understood decision-making processes with published timelines Publication Scheme and Transparency Code Datashare	Projects carried out by the Council's Research and Change Team Customer insight work Introduction of a requirement that all decision making reports must address the environmental and sustainability implications of the decision.

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.2.2 Ensure that professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately	Report template requires that consultation is undertaken with legal and financial functions before report considered by Members Record of decision making and supporting materials S151 and Monitoring Officer Protocols Equality Impact Assessments Clear and well understood decision making processes with published timelines.	Business Partners for Corporate and Improvement Services, including legal and financial matters
4.3.1 Ensure that risk management is embedded into the culture of the organisation, with members and managers at all levels recognising that risk management is part of their job	Risk Management Strategy - Policy Framework Corporate Risk Manager Corporate/service planning Cabinet Member with accountability for risk management Half-yearly reporting to Governance and Audit Committee Performance Management Board quarterly risk review Risk Registers- Strategic, Operational and Project Risk and Control self-assessment completed by all managers Training for Members and Officers Intranet area for Risk Management Corporate Governance Team, bringing together the co-ordination of governance processes.	Embedding of risk management processes into projects, with a review of what constitutes a significant project Integrating operational, strategic and project risks into the risk reporting process to senior management
In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.4.1 Actively recognise the limits of lawful activity placed on them by, for example the	Constitution Monitoring Officer	

ultra vires doctrine but also strive to utilise powers to the full benefit of their communities	Report templates Equality Impact Assessments Equality Objectives	
4.4.2 Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on local authorities by public law	Availability of professional legal advice Knowledge of current and forthcoming legislation and regulations Monitoring Officer Protocol S151 Officer Protocol Report templates Constitution Equality Impact Assessments Equality Objectives Training and Policy updates	Business Partners for Corporate and Improvement Services, including legal and financial matters
4.4.3 Observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationality, legality and natural justice into their procedures and decision making processes	Availability of professional legal advice Knowledge of current and forthcoming legislation and regulations Monitoring Officer Protocol S151 Officer Protocol Procedure Rules Report template Constitution Format for quasi-judicial committees “Have Your Say” processes Planning Procedure Code of Practice Equality Impact Assessments Equality Objectives Datashare	Business Partners for Corporate and Improvement Services, including legal and financial matters

PRINCIPLE FIVE

Core Principle 5 – Developing the capacity and capability of Members and Officers to be effective

Our aims in relation to developing the capacity and capability of Members and Officers to be effective are:

- 5.1 Making sure that Members and Officers have the skills, knowledge, experience and resources they need to perform well in their roles
- 5.2 Developing the capability of people with governance responsibilities and evaluating their performance as an individual and as a group
- 5.3 Encouraging new talent for membership of the authority so that best use can be made of individuals' skills and resources in balancing continuity and renewal

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
5.1.1 Provide induction programmes tailored to individual needs and opportunities for Members and Officers to update their knowledge on a regular basis	Member training and development Member training records on the website Member and Officer Induction programmes Refresher courses Briefings Performance reviews for officers People Strategy Personal Development Plans Learning and Development Strategy Charter Status for Elected Member Development renewed July 2018 (re-assessed every 3 years)	Member skills development Intranet section with e-induction options and information for new starters. Learning and Development section on the intranet is now a 'one stop shop' for staff e-learning – from induction to essential skills and wellbeing – with new section offering free webinars/resources. Commitment to seek reaccreditation of Member Charter Status in summer 2021
5.1.2 Ensure that the statutory officers have the skills, resources and support necessary	Appraisals and regular 1 to 1 sessions Personal Development Plans	

to perform effectively in their roles and that these roles are properly understood throughout the organisation	Training and development Recruitment and Induction Monitoring Officer and S151 Officer Protocols Employee Policies Learning and Development Strategy/Annual Learning and Development Plan Talent Management/Career Track for staff Future Leader programme	
In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
5.2.1 Assess the skills required by Members and Officers and make a commitment to develop those skills to enable roles to be carried out effectively	Performance reviews for officers SMART objectives Personal Development Plans for officers Member training and development People Strategy Learning and Development Strategy/Annual Learning and Development Plan Charter Status for Elected Member Development renewed July 2018 (re-assessed every 3 years) Talent Management/Career Track for staff – Senior Management Team considers critical roles; moderate career track paths; confirm Future Leader or Future Potential assessments; and then consider those on the Future Leader career track and manage their development	Member skills development Specialised training provided to Scrutiny members on the scrutiny of commercial companies and treasury management Commitment to seek reaccreditation of Member Charter Status in summer 2021
5.2.2 Develop skills on a continuing basis to improve performance including the ability to scrutinise and challenge and to recognise when outside expert advice is needed	Performance reviews for officers Personal Development Plans for officers Member training and development Member scrutiny training People Strategy Colchester Learning Managers	Member skills development Learning and Development – commercial and Office365 skills Specialised training provided to Scrutiny members on the scrutiny of commercial companies and treasury management

	Vine HR and East of England Local Government Association – meetings, best practice and briefings Peer Challenge and action plan Charter Status for Elected Member Development renewed July 2018 (re-assessed every 3 years) Talent Management/Career Track for staff	Commitment to seek reaccreditation of Member Charter Status in summer 2021
5.2.3 Ensure that effective arrangements are in place for reviewing the performance of the authority as a whole and of individual members and agreeing an action plan which might for example aim to address any training or development needs	Performance reporting and indicators Performance and Improvement Framework Performance management and appraisals – staff SMART objectives People Strategy Peer Challenge and action plan Annual Audit Letter Members' Training Needs Analysis Annual Training Plan Local Government Ombudsman Annual Letter	Commitment to seek reaccreditation of Member Charter Status in summer 2021
In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
5.3.1 Ensure that effective arrangements designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority	Equality Impact Assessments on services and policies Consultations, Research and Statistics on website Voluntary Sector Grants programme Community Enabling Strategy Public meetings Equality Objectives Strategic Plan Consultation Local Development Framework consultation Community development work Consultations Customer insight work	Apprenticeship scheme, and encouraging the Council's apprentices to take part in elections work Locality Budgets Use of social media Maintaining the Council's commitment to paying the Living Wage as a minimum for its staff including, for example, those helping to support the Council's elections work at polling stations

	<p>Research and Change Team projects Have Your Say! processes Appointment of Independent Persons Audio streaming of Council meetings</p> <p>The adoption of on-line committee meetings has enabled greater participation from all sections of the community. The viewing figure demonstrate greater public participation than the previous audio recordings. A public consultation provided responses that demonstrated overwhelming support for on-line meetings.</p>	<p>Establishment of Policy Panel and Environment and Sustainability Policy Panel from July 2020 and its work programme.</p> <p>Further review of on-line committee meetings in the future and the development of hybrid meetings.</p>
5.3.2 Ensure that career structures are in place for Members and Officers to encourage participation and development	<p>People Strategy Internal Recruitment Process Internal Secondments Personal Development Plans for officers Personal Development Plans for members Talent Management/Career Track for staff Future Leader Programme Member skills development Staff structure charts</p>	<p>Staff Recognition Scheme – first virtual celebration event held September 2020</p> <p>Opportunities such as the District Council Staff Development Programme and the Local Authority Challenge as they arise</p> <p>Commitment to LGA Leadership Academy</p>

PRINCIPLE SIX

Core Principle 6 – Engaging with local people and other stakeholders to ensure robust public accountability

Our aims in relation to engaging with local people and other stakeholders to ensure robust public accountability are to:

- 6.1 Exercise leadership through a robust scrutiny function which engages effectively with local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships
- 6.2 Take an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly, in partnership or by commissioning
- 6.3 Make best use of human resources by taking an active and planned approach to meet responsibility to staff

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
6.1.1 Make clear to themselves, all staff and the community, to whom they are accountable and for what	Constitution Community Enabling Strategy Stakeholder identification Targets and Performance Monitoring Website and intranet Consultation work ICT, Communication and Technology Strategy Asset Management Strategy Datashare section on the Council's website brings together all information required under statutory codes such as the 'Local Government Transparency Code' and the Publication Scheme to make this easily accessible Structure charts for senior management	A wide range of information is brought together into one searchable website - www.data.gov.uk – much of this can be downloaded / shows year-on-year data – looking at IT and access improvements. Locality Budgets for councillors have been brought in with clearer guidelines and all spend/activity transparently available on the Council's website.

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
6.1.2 Consider those institutional stakeholders to whom they are accountable and assess the effectiveness of the relationships and any changes required	Stakeholder identification Statutory provisions Stakeholder surveys Consultation Strategy ICT, Communication and Technology Strategy Partnership Strategy Scrutiny Panel and the Crime and Disorder Committee Work Programme Datashare	Ongoing review of Freedom of Information requests to see if there are items which could be put onto the website or Datashare, so that a repeat request would not be needed as the item had been made freely available.
6.1.3 Produce an annual report on scrutiny function activity	Annual Scrutiny Report	
6.2.1 Ensure that clear channels of communication are in place with all sections of the community and other stakeholders including monitoring arrangements to ensure that they operate effectively	ICT, Communication and Technology Strategy News releases, e-newsletters and social media Websites for the Council and subsidiaries Equality Impact Assessments Safeguarding Policies Datashare, Freedom of Information and Data Protection section of the website Recordings of meetings on the website	Coronavirus resources set up March 2020 - have provided a source of latest updates, information, advice and support. The Council's Digital Access Team has a range of activities and actions to support the community with online communication and service access. Social media and text messaging Customer and demand projects
6.2.2 Hold meetings in public unless there are good reasons for confidentiality	Constitution Access to Information Rules Compliance with Localism Act access to information regulations Audio streaming of Council meetings	Decision making meetings have been held remotely and have continued through the Covid 19 pandemic. Meetings have been live streamed through YouTube leading to greater public engagement.

6.2.3 Ensure arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands	Strategic Plan Website - "Consultations, Research and Statistics" section Consultation work ICT, Communication and Technology Strategy Community development work Equality Objectives/Equality Impact Assessments Budget Consultation Meeting	Holding public consultations on key issues to encourage different sections with differing views to take part
In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
6.2.4 Establish a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users including a feedback mechanism for those consultees to demonstrate what has changed as a result	Statement of Community Involvement Customer insight project team and its work Partnership framework ICT, Communication and Technology Strategy Consultation Strategy Budget Consultation - meeting and online Strategic Plan consultation Website - "Consultations, Research and Statistics" section Cabinet and Council – progress of questions raised by the public	Policy Panel review of results and data collected in recent surveys and consultations with a view to exploring these in more depth at future meetings as part of the Panel's forward plan
6.2.5 On an annual basis, publish a performance plan giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period	Statement of Accounts Strategic Plan Strategic Plan Action Plan – progress is reported to Scrutiny and Cabinet on a half-yearly basis Performance Reporting and Indicators Council website has "Performance and Improvement", "Council Awards and Achievements" and "Council and Democracy" sections Publication Scheme and Transparency Code All annual reports into one central place on the Council's website for improved transparency	

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
6.2.6 Ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so	Constitution Customer service standards Voluntary Sector Compact “Have Your Say” at meetings Freedom of Information Act Publication Scheme Member and Officer Codes of Conduct Ethical Governance Policies Monitoring Officer Protocol ICT, Communication and Technology Strategy Data Protection Policy ICT Security Policy Council website Datashare, Freedom of Information and Data Protection section of the website National Fraud Initiative - Fair Processing Notice Egress Switch Secure Email Encryption Publication Scheme and Transparency Code Live Streaming of Council meetings Working with a range of partners to provide customer-facing services.	Security checks on staff who process official/sensitive information using the Public Sector Network or who need a secure GCSX e-mail address
6.3.1 Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making	Investors in People Facilities and Recognition Agreement with UNISON – including monthly meetings. Internal Communications Strategy Service Reviews and other operational reviews include consultation and involvement arrangements as part of the process/staff communications	Staff survey and taking action on its findings Staff involvement – new engagement group being established Investors in People – reaccredited for three years to 2021

24 November 2020

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

1. Executive Summary

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

2. Recommended Decision

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

3. Background

- 3.1 The Member / Officer Protocol is contained in Part 5 of the Constitution. This Protocol provides a framework for good working relationships between Councillors and Officers, to define their respective roles and provide some principles governing conduct.
- 3.2 The Committee last reviewed the Protocol at its meeting on 26 November 2019. It is considered to be operating satisfactorily and no changes are proposed.

4. Strategic Plan References

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

5. Publicity Considerations

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

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

- 6.1 None.

Member / Officer Protocol

Introduction

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

1 The Respective Roles of Members and Officers

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

2 Officers' Advice and Political Neutrality

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

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

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

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

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

3 Officers' Advice on Declarations of Interest

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

4 Personal Relationships

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

5 Appointment of Officers

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

6 Undue Pressure

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

7 Officers' Reports and Advice

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

8 Officer Decisions made under Delegated Powers

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

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

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

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

10 Constructive Criticism/Complaints

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

11 Members' access to information and to Council documents

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

12 Public Relations and Press Releases

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

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

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

13 Council Publications

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

14 Member Support Services

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

15 Correspondence

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

16 Involvement of Ward Members and MPs

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

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

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

17 Ministerial Visits

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

18 Procedure for dealing allegations of breaches of this Protocol

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

19 Review of this Protocol

- (1) This Protocol will be reviewed annually by the Governance and Audit Committee.

24 November 2020

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

1. Executive Summary

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

2. Recommended Decision

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

3. Background

- 3.1 The Gifts and Hospitality Guidance for Councillors and the Policy for Employees were last considered by the Committee at its meeting on 26 November 2019.
- 3.2 The Council when it adopted its Members' Code of Conduct retained the requirement from the previous regime for transparency purposes of the registration and declaration of gifts and hospitality of the value of £50 and above as part of the Councillors Register of Interests. These are published on the Council's website as an integral part of the Committee Management Information System (CMIS). Guidance was produced for Councillors who may be offered gifts and/or hospitality and is included in the Constitution. The Guidance has been reviewed and updated and is attached at Appendix 1 of this report and the Committee is requested to approve the Guidance and to include it in the Constitution.
- 3.3 Council employees are required as part of their terms and conditions of employment to register any gifts and hospitality received in a register which is maintained by each Assistant Director. This register is subject to quarterly and annual review by the Monitoring Officer. In addition, the registers are regularly audited by the Council's internal auditors. The employee's policy on gifts and hospitality is published on the Council's intranet and the opportunity has been taken to review and update the Policy which is attached at Appendix 2. The Committee is requested to approve the Policy.
- 3.4 The Monitoring Officer writes annually to both Councillors and Officers reminding them of their obligation regarding declaring and registering gifts and hospitality.

4. Strategic Plan References

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

5. Publicity Considerations

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

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

- 5.1 None.



Guidance for Councillors regarding Gifts and Hospitality

A guide for Councillors regarding
gifts and hospitality.

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1. Introduction

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

2. The Legal Position

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

3. General Advice

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

4. Gifts

The following rules should be applied:

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

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

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

5. Hospitality

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

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

5.3 The following are examples of unacceptable hospitality:

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

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

6. Declaration of Gifts or Hospitality at Meetings

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

7. Further advice

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



Gifts and Hospitality Policy for Employees

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

November 2020

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1. Introduction

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

2. Gifts

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

3. Hospitality

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

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

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

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

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

4. Recording Gifts and Hospitality

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

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

Governance and Audit Committee

Item
14

24 November 2020

Report of	Assistant Director Corporate and Improvement Services	Author	Matthew Evans ☎ ext. 8006
Title	Work Programme 2020-2021		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This report sets out the current Work Programme 2020-2021 for the Governance and Audit Committee. This provides details of the reports that are scheduled for each meeting during the municipal year. Members will note that Treasury Management items have been moved from this meeting to the next meeting of this Committee in January.

2. Recommended Decision

- 2.1 The Committee is asked to note the contents of the Work Programme for 2020-2021.

3. Reason for Recommended Decision

- 3.1 The Work Programme of this Committee is kept under review throughout the municipal year to ensure that business is progressed and Members have the opportunity to review upcoming agenda items.

4. Alternative Options

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

5. Background Information

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

6. Standard References

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

7. Strategic Plan References

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

WORK PROGRAMME 2020-21

Governance and Audit Committee
Meeting date / Agenda items -
Governance and Audit Committee - 23 June 2020
<ol style="list-style-type: none">1. Draft Annual Statement of Accounts 2019/20202. Year End Internal Audit Assurance Report 2019/20203. Review of the Governance Framework and Draft Annual Governance Statement4. CCHL – Annual report
Governance and Audit Committee - 28 July 2020
Governance and Audit Committee briefing followed by the following items -
<ol style="list-style-type: none">1. Review of Governance Framework and Draft Annual Governance Statement2. LGA Consultation on a Model Code of Conduct for Councillors3. Review of digital meetings following Covid-19
Governance and Audit Committee - 8 September 2020

1. Colchester Borough Homes Annual Report and Governance Statement
2. Financial Monitoring Report – April to June 2020
3. Capital Expenditure Monitor 2020/2021
4. 2019/2020 Year End Review of Risk Management

Governance and Audit Committee - 20 October 2020

1. Local Government and Social Care Ombudsman Annual Review 2019/2020
2. Health and Safety Policy and Annual Report
3. Review of digital meetings following Covid-19

Governance and Audit Committee – 24 November 2020

1. Audited Statement of Accounts 2019/2020
2. Equality and Safeguarding Annual Update
3. Review of the Council's Ethical Governance Policies
4. Annual Review of the Members' Code of Conduct and the Council's Localism Act "Arrangements"
5. Review of Local Code of Corporate Governance
6. Review of Member/Officer Protocol
7. Gifts and Hospitality – Review of Guidance for Councillors and Policy for Employees.

Governance and Audit Committee - 19 January 2021

1. Interim Review of the Annual Governance Statement Action Plan
2. Risk Management Progress Report
3. Mid-Year Internal Audit Assurance Report 2020/2021
4. CCHL Half-Year Performance Report
5. Annual Review of the Council's Companies' Business Plans
6. Treasury Management Report 2019-20
7. Treasury Management – Half Yearly Update
8. Annual Review of Business Continuity
9. Annual Audit Letter

Governance and Audit Committee - **23 March 2021**

1. External Audit Plan for year ending 31 March 2021 and Certification of Claims and Returns – Annual Report 2019/2020
2. Financial Monitoring Report
3. Capital Expenditure Monitor 2020/2021
4. Internal Audit Plan 2021/2022