

Council Meeting

**Charter Hall, Colchester Leisure World,
Colchester, CO1 1YH
Thursday, 02 December 2021 at 18:00**

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

Audio Recording, Mobile phones and other devices

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

Access

The main access to Charter Hall is suitable for wheelchair users. There is an induction loop in all the Charter Hall.

Facilities

Toilets are available. Attendees are advised to bring their own refreshments or to purchase them from the Leisure World café which will be open.

Evacuation Procedures

Should the emergency alarm sound exit the building by the nearest available emergency exit and assemble at the Skate Park.

Colchester Borough Council

telephone (01206) 282222 or textphone 18001 followed by the full number you wish to call

e-mail: democratic.services@colchester.gov.uk

www.colchester.gov.uk

Covid 19

Please could attendees note the following:-

- Hand sanitiser, wipes and masks will be available.
- Do not attend if you feel unwell with a temperature or cough, or you have come in to contact with someone who is unwell with a temperature or cough.
- Masks should be worn whilst arriving and moving round the meeting room, unless you have a medical exemption.
- All seating will be socially distanced with 2 metres between each seat. Please do not move the chairs. Masks can be removed when seated.
- Please follow any floor signs and any queue markers.
- Try to arrive at the meeting slightly early to avoid a last minute rush.
- A risk assessment, including Covid 19 risks, has been undertaken for this meeting.

COLCHESTER BOROUGH COUNCIL
Council
Thursday, 02 December 2021 at 18:00

TO ALL MEMBERS OF THE COUNCIL

Published 30/11/2021

You are hereby summoned to attend the meeting of the Council to be held on Thursday, 02 December 2021 at 18:00 for the transaction of the business stated below.



Chief Executive

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

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

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

Live Broadcast

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

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

1 Welcome and Announcements (Council)

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

2 Have Your Say! (Hybrid meetings)

Members of the public may make representations to the meeting. This can be made either in person at the meeting or by joining the meeting remotely and addressing the Council via Zoom. Each representation may be no longer than three minutes. Members of the public wishing to address the Council remotely may register their wish to address the meeting by e-mailing democratic.services@colchester.gov.uk 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.

There is no requirement to pre register for those attending the meeting in person.

3 Declarations of Interest

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

4 Minutes of the Previous Meeting (Council)

A... Motion that the minutes of the meeting held on 15 September 2021 and 20 October 2021 be confirmed as a correct record.

Council minutes 150921 11 - 12

Council minutes 201021 13 - 22

5 Mayor's Announcements

The Mayor to make announcements.

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

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

7 Recommendations of the Cabinet, Panels and Committees

Council will consider the following recommendations:-

7(i) Establishment of a Joint Committee for Tendring Colchester Borders Garden Community 23 - 28

B... Motion that the recommendation contained in draft minute 605 of the Cabinet meeting of 17 November 2021 be approved and adopted.

7(ii) Local Council Tax Support Scheme 2022-23 29 - 30

C... Motion that the recommendation contained in draft minute 608 of the Cabinet meeting of 17 November 2021 be approved and adopted.

7(iii) Officer Pay Policy Statement 2022-23 31 - 32

D... Motion that the recommendation contained in draft minute 609 of the Cabinet meeting of 17 November 2021 be approved and adopted.

- 7(iv) **Nomination for Deputy Mayor 2022-23** 33 - 34
- E... Motion that the recommendation contained in draft minute 614 of the Cabinet meeting of 17 November 2021 be approved and adopted.
- 7(v) **Gambling Act 2005 Policy** 35 - 38
- F... Motion that the recommendation contained in draft minute 143 of the Licensing Committee meeting of 10 November 2021 be approved and adopted.
- 7(vi) **Review of the Ethical Governance Policies** 39 - 40
- G... Motion that the recommendations contained in draft minute 290 of the Governance and Audit Committee meeting of 23 November 2021 be approved and adopted.
- 7(vii) **Review of Local Code of Corporate Governance** 41 - 42
- H... Motion that the recommendation contained in draft minute 292 from the Governance and Audit Committee meeting of 23 November 2021 be approved and adopted.
- 8 **Notices of Motion pursuant to the provisions of Council Procedure Rule 11**
- Council will consider the following Motions:-
(Note: The maximum length of time for the consideration of all such motions shall be 80 minutes. In the event that a motion is still being debated when the 80 minutes have elapsed the Mayor shall invite the proposer of the motion to respond to the debate and the move straight to the vote.)
- 8(i) **Insulating Homes**
- Motion I
Proposer: Cllr J. Young, Cllr Cory
- Climate change is the biggest single threat that Colchester residents face. The biggest carbon impact locally is poorly insulated homes. As energy prices skyrocket local families are spending hard earned incomes on heat that leaks from their homes. Colchester needs a plan to retrofit local homes, that provides new jobs, reduces heating bills and ensures people are warm in their homes over winter periods. This council calls on the Cabinet members for the Environment , Housing and Planning to develop a plan to work with Colchester Borough Homes, housing associations, private landlords and homeowners to retrofit homes and tackle the climate emergency. This plan must include calling on Government to provide additional funding to support this vital work which will be good for residents and climate change.*
- As the motion relates to an executive function, it will stand referred to direct to Cabinet unless Procedure 11(2) is suspended.

8(ii) Standards

Motion J

Proposer: Cllr King and Cllr Fox

Confidence in politics has been further damaged by recent parliamentary lobbying, misconduct and the second jobs controversy.

This Council welcomes the Government's withdrawal of their proposals, and the Prime Minister's apology. And their restated support for an independent Standards Commissioner and process, as this helps ensure our Members of Parliament act in the interest of their constituents and our nation, uninfluenced by what they can earn by lobbying.

This Council believes the great majority of elected members, including this Council, are motivated by public service alone. We commit ourselves to ensure our conduct is beyond reproach, to continue to declare any conflicts of interest, to not accept payments from any who seek to improperly influence what we as individuals or a local authority might do. And to work to the highest standards of public service. To put the interests of our residents and the wider public first in all we do.

As the motion relates to a non-executive function, it will be debated and determined at the meeting.

8(iii) Support for Local Businesses

Motion K

Proposer: Cllr Crow

This Council wishes all Colchester Borough residents a great Festive Season and would like this Council to take this opportunity to promote our local businesses of all sizes who are creators of jobs and prosperity. We implore local residents to shop local and support all our businesses that have been through so much in the last 18 months including supporting "Small Business Saturday" this weekend. This Council would like to thank the BID, Lion Walk and Culver Square shopping centres, COLBEA and all other organisations that have helped our businesses during the pandemic and hope our local businesses have a prosperous Christmas.

As the motion relates to a non-executive function, it will be debated and determined at the meeting.

8(iv) **Climate Change**

Motion L

Proposer: Cllr Nissen

This Council notes:

- *The Glasgow Pact is a significant deal signalling the end of coal, oil and gas - and it's wide agreement by leaders to "keep 1.5C alive".*
- *The moral authority shown by climate activists, based on climate science, has been clear in setting this higher ambition.*
- *The Glasgow Pact did not secure National Determined Contributions (NDCs) to stay within 1.5C so will be only a game changer if we get our act together over the coming year, which depends on what the UK does with its continued presidency of COP, and the wider actions and leadership across the UK.*

This Council further notes:

- *The most climate vulnerable countries are calling for natural justice, for the rich countries to pay for current losses and damages based on historic greenhouse gas emissions; and*
- *That the world's government's must now accept we are now in climate emergency mode and have to come back next year with plans and pledges that at least halve carbon emissions this decade and set carbon budgets that stay well within the 1.5C limit.*

Therefore this Council calls on the UK government to:

1. *Reverse Official Development Assistance (ODA, "aid") budget cuts*
2. *Conduct an independent review into UK fossil fuel subsidies and set out a plan and timetable to phase these out.*
3. *Put climate change at the heart of all future trade deals, and call for an end to the investor-state dispute settlement (so called "corporate courts") that allow companies to sue governments for taking climate action (see www.globaljustice.org.uk).*
4. *Commit to no more coal, oil (je or gas) extraction in the UK, or through UK investments overseas.*
5. *Commit to no airport expansion across the UK, and for international aviation and shipping decarbonisation to be included in NDCs, and in future trade deals.*
6. *Cancel the UK's current road building programme and divert spending to local council zero carbon transport plans.*
7. *Commit that UK international climate finance is provided in addition to existing official development assistance (ODA) as agreed at the Copenhagen and Paris climate summits and for this to include funds for climate mitigation, adaptation and loss and damage payments.*

As the motion relates to a non-executive function, it will be debated and determined at the meeting.

9 **Questions to Cabinet Members and Chairmen pursuant to Council Procedure Rule 10**

Cabinet members and Chairmen will receive and answer pre-notified questions in accordance with Council Procedure Rule 10(1)

followed by any oral questions (not submitted in advance) in accordance with Council Procedure Rule 10(3).

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

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

10	Authorisation of Absence from Council and Committee meetings	43 - 44
	M...Motion that the recommended decision in the report from the Assistant Director, Corporate and Improvement Services, be approved and adopted.	
11	Schedule of Portfolio Holder Decisions	45 - 46
	Council is invited to note the Schedule of Portfolio Holder decisions for the period 9 October 2021 - 19 November 2021.	
12	Urgent Items (Council)	
	Council will consider any business not specified in the Summons which by reason of special circumstances the Mayor determines should be considered at the meeting as a matter of urgency.	
13	Reports Referred to in Recommendations	
	The reports specified below are submitted for information and referred to in the recommendations specified in item 7 of the agenda:	
	Joint Committee TCBGC, report to Cabinet 171121	47 - 70
	LCTS 2022-23 report to Cabinet 171121	71 - 74
	Officer Pay Policy Statement 2022-23, report to Cabinet, 171121	75 - 90
	Gambling Act 2005 Policy, report to Licensing Committee 101121	91 - 158
	Review of Ethical Governance Policies, report to Governance and Audit Committee 231121	159 - 252
	Review of Local Code of Corporate Governance, report to Governance and Audit Committee 231121	253 - 284

14 **Exclusion of the Public (not Scrutiny or Executive)**

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

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

Council

Wednesday, 15 September 2021

Attendees:	Councillor Lyn Barton, Councillor Kevin Bentley, Councillor Tina Bourne, Councillor Roger Buston, Councillor Nigel Chapman, Councillor Peter Chillingworth, Councillor Helen Chuah, Councillor Mark Cory, Councillor Pam Cox, Councillor Robert Davidson, Councillor Paul Dundas, Councillor Adam Fox, Councillor Mark Goacher, Councillor Martin Goss, Councillor Jeremy Hagon, Councillor Dave Harris, Councillor Chris Hayter, Councillor Pauline Hazell, Councillor Mike Hogg, Councillor John Jowers, Councillor David King , Councillor Darius Laws, Councillor Martin Leatherdale, Councillor Sue Lissimore, Councillor Andrea Luxford Vaughan, Councillor Jackie Maclean, Councillor Sam McCarthy, Councillor Steph Nissen, Councillor Chris Pearson, Councillor Lee Scordis, Councillor Lesley Scott-Boutell, Councillor Martyn Warnes, Councillor Lorcan Whitehead, Councillor Dennis Willetts, Councillor Barbara Wood, Councillor Julie Young, Councillor Tim Young
Apologies:	Councillor Lewis Barber, Councillor Michelle Burrows, Councillor Phil Coleman, Councillor Nick Cope, Councillor Simon Crow, Councillor Andrew Ellis, Councillor Michael Lilley, Councillor Derek Loveland, Councillor Roger Mannion, Councillor Patricia Moore, Councillor Beverley Oxford, Councillor Gerard Oxford, Councillor Philip Oxford, Councillor Leigh Tate

465 Attendance by Honorary Aldermen

Honorary Aldermen Hall and Russell were also in attendance.

Apologies had been received from Honorary Aldermen Blandon, Fairhead, Gower, Lewis, Spendlove, Spyvee, Stevens and Sykes.

466 Prayers

The meeting was opened with prayers from the the Mayor's Chaplain, the Reverend Dr Amanda Elmes.

467 Mayoral Tribute

Council stood for a minutes silence in tribute to Honorary Aldermen Richard Wheeler, Ken Cooke, Terry Sutton, Janet Fulford, David Holt and former Councillor John Stevens, who had died since the start of the Covid 19 pandemic.

468 Honorary Alderman Badge

The Mayor advised Council that Honorary Aldermen Blandon, Green and Kimberley had been presented with a badge recognising their position as Honorary Aldermen.

469 Honorary Aldermen

RESOLVED (UNANIMOUSLY) that in pursuance of the provisions of section 249 of the Local Government Act 1972 Council confers the title of Honorary Alderman on former Councillors Christopher Arnold, John Elliott and Theresa Higgins in recognition of their loyal and eminent service as a member of the Council and its constituent authority.

Honorary Aldermen Arnold, Elliott and Higgins offered their thanks to Council.

Council

Wednesday, 20 October 2021

Attendees:

Councillor Lewis Barber, Councillor Lyn Barton, Councillor Kevin Bentley, Councillor Tina Bourne, Councillor Michelle Burrows, Councillor Roger Buston, Councillor Nigel Chapman, Councillor Peter Chillingworth, Councillor Helen Chuah, Councillor Nick Cope, Councillor Mark Cory, Councillor Pam Cox, Councillor Simon Crow, Councillor Robert Davidson, Councillor Paul Dundas, Councillor Andrew Ellis, Councillor Adam Fox, Councillor Mark Goacher, Councillor Martin Goss, Councillor Jeremy Hagon, Councillor Dave Harris, Councillor Chris Hayter, Councillor Pauline Hazell, Councillor Mike Hogg, Councillor John Jowers, Councillor David King , Councillor Darius Laws, Councillor Martin Leatherdale, Councillor Michael Lilley, Councillor Sue Lissimore, Councillor Derek Loveland, Councillor Andrea Luxford Vaughan, Councillor Jackie Maclean, Councillor Roger Mannion, Councillor Sam McCarthy, Councillor Patricia Moore, Councillor Beverley Oxford, Councillor Gerard Oxford, Councillor Philip Oxford, Councillor Chris Pearson, Councillor Lee Scordis, Councillor Lesley Scott-Boutell, Councillor Leigh Tate, Councillor Martyn Warnes, Councillor Lorcan Whitehead, Councillor Dennis Willetts, Councillor Barbara Wood, Councillor Julie Young, Councillor Tim Young

470 Prayers

The meeting was opened with prayers from the Reverend Dr Amanda Elmes.

471 Attendance and Apologies

Apologies were received from Councillors Coleman and Nissen.

Councillors Bentley, Hagon and Whitehead attended remotely and did not take part in any votes held in the course of the meeting.

472 One Minute Silence

The Mayor invited Council to stand for a minute's silence in tribute to David Amess MP.

473 Have Your Say! (Hybrid meetings)

Sir Bob Russell addressed Council pursuant to the provisions of Council Procedure Rule 6(1) in support of the bid for City Status. It was hoped that the proposal would receive unanimous support. He noted that it had been suggested that Colchester should not apply out of respect for David Amess, MP. However he had been a friend of David Amess for twenty four years and knew that was not what he would have wanted. He paid tribute to David Amess, with whom he had recently discussed Colchester and Southend's respective bids for City Status. Colchester should continue to go forward with the application for City Status.

Mr Orton addressed Council pursuant to the provisions of Council Procedure Rule 6(1). He had been attending meetings since 2017 speaking on behalf of the people of Colchester to bring their views to Council and to inspire the Council to action. The new administration had invited him to undertake a tour of the town centre with them and they had been shocked by what they saw. He hoped the new administration would be able to deal with the eyesores in the town centre. The current condition of the town centre meant that it was not to the standard required for City Status.

A statement from Dorian Kelly was read to Council pursuant to the provisions of Remote Meetings Procedure Rule 5(1). There was an enormous amount of support amongst the art and culture communities in Colchester for the bid for City Status. It would not cost a significant amount and would do a considerable amount of good. A successful bid would make people feel differently about Colchester. Culture and heritage tourism was vitally important for Colchester's economic future. City Status would change the perception of Colchester and lead to an increase in visitor numbers. It would demonstrate that Colchester was an A-list, cultural, historic city with a lot going for itself which consistently punched above its weight.

A question from Catherine Spindler was read to Council pursuant to the provisions of Remote Meetings Procedure Rule 5(1), setting out the difficulties residents of New Town had in parking outside their property. Therefore residents were unable to have electric charging points. New Town should be considered for a bid for funding from the Government's On-Street Residential Chargepoint Scheme due to the high pressure of parking in the area that was preventing residents from investing in an electric vehicle. The Council should investigate, consult and bid for dedicated electric meter charge point bays at Old Heath Recreation Ground and other sites in New Town. Was the Council also considering metered electronic charge bays for all of its car park sites?

Councillor Crow, Portfolio Holder for Environment and Sustainability, responded and explained that the Council had made an application to the Residential Chargepoint Scheme to install charging points at the Council car park at the Recreation Ground. This was subject to a feasibility study that was underway, and the Council was also looking at other sites in Colchester and Wivenhoe. Essex County Council were responsible for on street charging and the appointment of an officer responsible for drawing up an Electric Charging Point Strategy was imminent. Colchester Borough Council was looking at electric vehicle charging point infrastructure in its town centre car parks and an announcement would be made shortly.

474 Military Service in Afghanistan

The Mayor welcomed Garrison Commander Colonel Ed Rankin and Garrison Sergeant Major Andy Lamont to the meeting to hear the Council's debate on the motion on military service in Afghanistan.

It was proposed by Councillor Dundas on behalf all Group Leaders that:-

This Council, all current Councillors and those who have served as Councillors over the last 20 years, wish to express their thanks to all Colchester based military personnel past and present who have served with distinction in Afghanistan over the last 20 years.

Colchester is very proud of its military connections and of our armed forces community who make Colchester their home. Through the Armed Forces Covenant we will continue to support our military and uphold the commitments we have made to them.

We thank you for your service and welcome you home.

On being put to the vote, the motion was approved and adopted (UNANIMOUS).

The Mayor invited Colonel Rankin to respond to the motion. Colonel Rankin thanked Council for its support as demonstrated by the wording of the motion. He felt that the debate captured the essence of the Garrison's culture. On behalf of all ranks the motion was warmly received. Service personnel and their families considered that Colchester was one of the best lived experience towns and he considered this was because of the enduring support and the special relationship the Garrison had with the borough and its residents. He offered the Garrison's sincere thanks for this support.

475 Minutes of the Previous Meeting (Council)

The minutes of the meeting held on 14 July 2021 were confirmed as a correct record.

476 Mayor's Announcements

The Mayor announced the following events:-

- Oyster Feast, 29 October 2021;
- Two minute's silence on the Town Hall Steps on Armistice Day, 11 November 2021;
- Remembrance Day Parade and Ceremony, 14 November 2021;
- Civic Carol Service, 19 December 2021

477 Colchester's Bid for City Status

RESOLVED (THIRTY EIGHT voted FOR, TWO voted AGAINST and FIVE ABSTAINED from voting) that the recommendation contained in draft minute 598 of the Cabinet meeting of 13 October 2021 be approved and adopted.

478 Budget 2022/23 and Medium Term Financial Forecast

RESOLVED (MAJORITY voted FOR) that the recommendation contained in draft minute 599 of the Cabinet meeting of 13 October 2021 be approved and adopted.

479 2020/21 Year End Review of Risk Management

RESOLVED (MAJORITY voted FOR) that the recommendation contained in draft minute 600 of the Cabinet meeting of 13 October 2021 be approved and adopted.

480 Review of the Council's Processing of Special Category and Criminal Convictions Personal Data Policy

RESOLVED (UNANIMOUS) that the recommendation contained in draft minute 276 of the Governance and Audit Committee meeting of 7 September 2021 be approved and adopted.

481 Taxi and Private Hire Licensing Policy - Statutory Standards

RESOLVED (UNANIMOUS) that the recommendation contained in minute 134 of the Licensing Committee meeting of 21 July 2021 be approved and adopted.

482 Annual Scrutiny Report 2020-21

RESOLVED (UNANIMOUS) that the recommendation contained in minute 308 of the Scrutiny Panel meeting of 20 July 2021 be approved and adopted.

483 Local and Neighbourhood Plans

Elizabeth Austin addressed Council pursuant to the provisions of Meetings General Procedure Rule 5(1) to read the following statement from Anna Bolton

"The local CO1 North community are victims to one of the most insidious of Govt planning law: Permitted Development (PD), in regards to the re-development of the Riverside Business Centre. From the first iteration of the application for prior notification in April 2021, the community raised loud objections online, in the local paper and directly to our local elected officials and MP, we also had the support of our Ward and Borough Councillors. But all this sadly counted for very little in the end. On the 29th July 2021 the application was finally pushed to a planning committee meeting, in which over 30 members of the CO1 North community attended, such was the feeling against this application. The Council Planning Team, the Planning Committee and the local community however had very little control over the outcome, the power always lay with the developers under PD. Due to the application being brought last minute to the planning committee, the application was voted through on very narrow criteria with several abstentions and those who did vote, only had top line understanding of the intricacies around PD and the application. The site remains unfit for 93 social housing units squeezed into an office block layout. The area's amenity and well being has been hugely compromised, and it's the existing community and the future tenants who will bear the burden of these decisions.

The system for the public to 'Have Your Say' at the planning committee stage doesn't go near enough to offering an acceptable platform for the local community to be heard and understood, especially on such a large-scale application such as this was. As the representative of the CO1 area, I was given 3 minutes to get an entire community's feeling across, with no chance to respond or counter the points made by the council planning team who had the floor for the entire session. None of the community's letters (submitted at council request) were read by the committee members prior to the meeting or indeed read out on the night and we were denied by the Chair, our request for other members of the community to speak out. When the effects of these large scale planning applications are generational, the community's voice shouldn't be reduced to a 3 minute segment. We speak from a place of lived experience of the area and have a local knowledge that shouldn't be ignored, rubbished as nimbyism or prejudice.

The community will face: increased ASB - already at worrying levels in the area, increased traffic pressures in an already stretched system, parking problems, increased noise and air pollution, pressure on local schools, doctors, dentists etc. Who would want to live with this?

We were never against the re-development of this site and understand the need and importance for decent, well planned affordable housing. But putting families and vulnerable people into badly converted office blocks shouldn't be the solution we are reaching for. However, under Permitted Development this is the situation we find ourselves in. We must be push back against these disastrous planning laws at local and Government level, and fight for more power and influence for local communities to shape and protect their localities. "

Councillor Hazell, Chair of Planning Committee was invited to respond and explained that Planning Committee had to operate within the constraints of national planning policy and this had been clearly explained at the meeting that considered the Riverside application. The Committee had considered the application very carefully and had examined all the issues to see if it could secure an outcome that would address the concerns of local residents. The procedures for public contributions were set out in the Constitution and were properly applied. Local councillors understood the constraints the Planning Committee operated under but encouraged residents to believe that a different outcome was possible. Ward councillors would need to work with the residents of the new development to integrate them into the community in order for the development to be a success.

It was proposed by Councillor Barber that:-

Council welcomes the announcement by the Secretary of State for Levelling-up, Housing and Communities that he favours allowing communities to take back control of their futures and create greener and more beautiful places to live.

Council also recognises that there can be a gulf between Ministerial aspirations and real world decisions, as evidenced by the recent appeal decision in West Bergholt, where despite the community planning positively for growth via their adopted and up to date Neighbourhood Plan, an inspector saw fit to allow additional development on an unallocated site.

Council resolves to write to the Secretary of State emphasising the importance of protecting the right of communities to shape their localities and their right to object to individual planning applications. Council also asks that he direct the Planning Inspectorate to attach significantly greater weight to the ability of up to date Local and Neighbourhood Plan allocated sites meeting development requirements, when interpreting the presumption in favour of sustainable development.

A main amendment was proposed by Councillor Luxford Vaughan as follows:-

“That the motion on Local and Neighbourhood Plans be approved and adopted subject to the addition of the following further paragraph at the end of the motion:-

Additionally, Council requires Colchester Borough Council officers to recognise the section two Inspector’s modifications to our current plan that relate to Neighbourhood Plans, by affording all modifications relating to adopted Neighbourhood Plans, full weight when considered in relation to the emerging Local Plan.”

Councillor Barber indicated that the main amendment was accepted and the motion was deemed amended accordingly.

A main amendment was proposed by Councillor Lilley as follows:-

That the motion on Local and Neighbourhood Plans be approved and adopted subject to the following amendments:-

After the second paragraph the inclusion of an additional new paragraph as follows:

“Council also asks that the Portfolio Holder organise a member briefing on Permitted Development and that thereafter a separate letter will be sent to the Minister.”

In the final paragraph the addition of the words “and large scale permitted development.” at the end of the first sentence.

Councillor Barber indicated that the main amendment was accepted and the motion was deemed amended accordingly.

The revised wording of the motion was therefore as follows:-

Council welcomes the announcement by the Secretary of State for Levelling-up, Housing and Communities that he favours allowing communities to take back control of their futures and create greener and more beautiful places to live.

Council also recognises that there can be a gulf between Ministerial aspirations and real world decisions, as evidenced by the recent appeal decision in West Bergholt, where despite the community planning positively for growth via their adopted and up to date Neighbourhood Plan, an inspector saw fit to allow additional development on an unallocated site.

Council also asks that the Portfolio Holder organise a member briefing on permitted development and that thereafter a separate letter be sent to the Minister.

Council resolves to write to the Secretary of State emphasising the importance of protecting the right of communities to shape their localities and their right to object to individual planning applications and large scale permitted development. Council also asks that he direct the Planning Inspectorate to attach significantly greater weight to the ability of up to date Local and Neighbourhood Plan allocated sites meeting development requirements, when interpreting the presumption in favour of sustainable development.

Additionally, Council requires Colchester Borough Council officers to recognise the section two Inspector's modifications to our current plan that relate to Neighbourhood Plans, by affording all modifications relating to adopted Neighbourhood Plans, full weight when considered in relation to the emerging Local Plan.

On being put to the vote the motion was approved and adopted (UNANIMOUS).

484 Supporting Colchester Residents Hit by the Cost of Living Crisis

It was proposed by Councillor Fox, also on behalf of Councillor Cory and Councillor Goacher, that:-

This Council notes:

- *Colchester residents are being hit by a cost of living crisis caused by a reduction in support and rising costs including energy prices.*
- *At the beginning of the pandemic, the government recognised that Universal Credit did not cover the essentials.*

- *The £20 uplift has been a lifeline for households across our Borough including those with children, carers and people with disabilities. 40% of claimants are in work.*
- *Colchester has 24.6% of children living in poverty according to figures published in March 2021 by DWP/HMRC.*
- *The award-winning work of our council staff who have supported residents throughout the Covid-19 pandemic including through grants, Local Council Tax Support Scheme and Discretionary Housing Payments.*

This Council believes that:

- *The UK government should retain the £20 increase to Universal Credit and Working Tax Credit.*
- *Any reduction in benefit will see a huge increase on services such as, food banks. Latest figures from Colchester Foodbank show they issued nearly 14,000 parcels to residents including more than 6,000 to children in the last year.*

This Council requests that:

- *Group Leaders write jointly to Colchester's three MPs to lobby government to retain the £20 increase*
- *Cabinet ensure that Colchester Borough Council's Welfare Benefits Team and Colchester Borough Homes' Financial Inclusion Team are funded to meet the demands of people in need*
- *Cabinet continues to support organisations helping the most vulnerable including Colchester Foodbank, Citizens Advice, Community360, Munch Club and other holiday hunger projects*

On being put to the vote the motion was approved and adopted (TWENTY THREE voted FOR, TWENTY TWO voted AGAINST and ONE ABSTAINED from voting).

A named vote having been requested pursuant to the provisions of Council Procedure Rule 15(2) the voting was as follows:-

FOR: Barton, Bourne, Burrows, Chuah, Cope, Cory, Cox, Fox, Goacher, Goss, Harris, Hogg, King, Lilley, Luxford Vaughan, McCarthy, Pearson, Scordis, Scott Boutell, Warnes, J. Young, the Deputy Mayor (T. Young) and the Mayor (Davidson).

AGAINST: Barber, Buston, Chillingworth, Crow, Dundas, Ellis, Hayter, Hazell, Jowers, Laws, Leatherdale, Lissimore, Loveland, Maclean, Mannion, Moore, B. Oxford, G. Oxford, P. Oxford, Tate, Willetts and Wood.

ABSTAINED FROM VOTING: Chapman

485 Schedule of Portfolio Holder Decisions

RESOLVED that the schedule of Portfolio Holder decisions for the period 4 July 2021 – 6 October 2021 be noted.

486 Closure of Meeting

In view of the later hour the Mayor closed the meeting in accordance with the provisions of Council Procedure Rule 19(2) and directed that written responses be provided to pre-notified questions to Portfolio Holders that had been submitted.

Extract from the draft minutes of the Cabinet meeting of 17 November 2021

605. Establishment of a Joint Committee for Tendring Colchester Borders Garden Community

The Monitoring Officer submitted a report a copy of which had been circulated to each Member.

Councillor Warnes attended and with the consent of the Chair addressed Cabinet to express concerns that the Joint Committee would combine both executive and non-executive powers. This would mean that the same members would take decisions on major strategic and policy decisions, and decisions on individual planning applications. Whilst the concerns on this issue may be allayed by the DPD, this was contrary to the separation of functions in the Council's constitution. It would be preferable if the composition of the Joint Committee was flexible and could change on the basis of competencies. Concern was also expressed that by establishing the Joint Committee the Council was giving up powers to solely determine planning applications in that part of the borough included in the Garden Community.

Councillor G. Oxford attended and with the consent of the Chair addressed the Cabinet to stress his view that it was important that the Council was a member of the Joint Committee, as it could not influence matters if it was not involved.

A statement from Councillor Cory was read to the Cabinet suggesting that wider representation should be sought on the proposed future Joint Committee. Five members from each authority would allow greater diversity of contribution and more democratic input. The Essex County Council membership of the Committee, if widened to five, could include local division members. The Leader's ongoing discussions with Essex and Tendring on this issue were supported.

Councillor Goacher attended and with the consent of the Chair addressed the Cabinet to express his concern about the breadth of representation on the Joint Committee. The Council was effectively concentrating power in three representatives. In addition all three authorities were led by the same political group and therefore the Joint Committee was likely to be dominated by views representing a narrow element of the political spectrum. Tendering and Essex could outvote

Colchester on the Committee so there was a danger that the Council was ceding influence.

Councillor J. Young attended and with the consent of the Chair addressed the Cabinet to highlight that the part of the borough that most directly affected by the Garden Community development was Greenstead. This was also the most deprived ward in the borough. Residents of Greenstead would expect that their representatives would be at the heart of the development and for their issues to be heard. A ward councillor from Greenstead should be one of the Council's representatives on the Joint Committee. Concerns were also expressed about the Council giving up some of its powers and the possibility of the Council being outvoted on the Joint Committee.

Councillor Barber attended and with the consent of the Chair addressed the Cabinet and stressed the importance of the proposed constitutional changes being suitable for the long term. It was reassuring that the decisions would be taken by Full Council where each member had a vote, and that Full Council could in future change the arrangements if they were no longer suitable. The complexity of the Garden Community Project was also stressed. It was important that ward councillors understood this and did the necessary research to work to bring themselves up to speed on the project.

Councillor Dundas, Leader of the Council and Portfolio Holder for Strategy, introduced the report and responded to the comments made. It was accepted that following the Inspector's conclusions and the adoption of the Local Plan that development would happen on the site and there was a responsibility on the Council to ensure that the development was the best it could be.

It was stressed that at least 90% of the Garden Community site and nearly all the proposed development was within Tendring. Those parts of the borough included were largely buffer zones and it was unlikely that any development in Colchester would come forward in this plan period, as development would be built out from the centre of the Garden Community. Colchester was not ceding influence but was gaining it as it would be able to influence applications which would otherwise fall to Tendring to determine. He was continuing to raise the issue of numbers on the Joint Committee with Essex and Tendring. Tendring's administration was a coalition of seven groups, rather than a Conservative administration. If the Joint Committee was genuinely politically balanced it would be too unwieldy to be effective. A number of representations had been made about the make-up of the Council's representatives on the Joint Committee and these would be considered. It was noted that Essex County Council would also have three representatives and there may be scope to

discuss with them the possibility of twin hatted councillors being appointed to maximise Colchester representation.

The Joint Committee was an opportunity to gain influence over the nature of the development and if this was not taken, it may be a source of regret in the future. However, this was an ongoing process and matters could change in the future and the need for the Joint Committee to be reviewed over time was important. It was therefore proposed that the following additional wording be added to the resolution:-

“As with any new governance arrangements, including the terms of reference, they can be reviewed over time.”

RESOLVED that:-

- (a) It be agreed that a joint Development Plan Document be prepared with Tendring District Council and that that a Joint Committee be established with Tendring District Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community;
- (b) It be agreed that all three Councils should be represented on the appointed Joint Committee with full voting rights;
- (c) Executive functions in relation to the preparation of the joint Development Plan Document are delegated to be discharged by the appointed Joint Committee in accordance with Sections 101(5) and 102(1)(b) of the Local Government Act 1972;
- (d) It be agreed that each Council should be represented on the appointed Joint Committee with 3 members under Section 102(2) of the Local Government Act 1972, one of which will be a member of the Cabinet, appointed by the Leader;
- (e) It be agreed that the Terms of Reference for the Joint Committee, as set out in Appendix A for recommendation onto Full Council in respect of non-executive functions;
- (f) Support to the Leader to delegate further executive functions to the Tendring Colchester Borders Garden Community Joint Committee, in consultation with the Monitoring and Section 151 Officers, be endorsed;

(g) Authority be delegated to the Assistant Director Place and Client Services, in consultation with the Leader and Portfolio Holder for Resources to enter into a partnership agreement between the Councils, if deemed necessary to support the operation of the Joint Committee and the Tendring Colchester Borders Garden Community project;

(h) As with any new governance arrangements, including the terms of reference, they can be reviewed over time.

RECOMMENDED TO COUNCIL that:-

(i) A Tendring Colchester Borders Garden Community Joint Committee is appointed for the discharge of executive and non-executive functions related to Tendring Colchester Borders Garden Community, pursuant to Sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972 on the terms of reference attached at Appendix A to the Monitoring Officer's report and that the Council's membership be agreed by the Leader;

(ii) The Council enters into an agreement with Tendring District Council under section 28 of the Planning and Compulsory Purchase Act 2004 in relation to the preparation of a joint Development Plan Document in relation to Tendring Colchester Borders Garden Community;

(iii) Part 3 – Responsibility of Functions of the Constitution be amended to include the Terms of Reference of the Joint Committee; and

(iv) The Terms of Reference of the Local Plan Committee be amended as set out in Appendix B of the Monitoring Officer's report and that the Constitution be amended accordingly.

REASONS

To ensure appropriate governance and decision making arrangements are in place between the partner Council's in relation to Tendring Colchester Borders Garden Community.

ALTERNATIVE OPTIONS

The arrangements, for both plan making (planning policy) and development control purposes (determination of planning applications), to be considered are:

Joint Committees established under Section 101 Local Government Act 1972
(Cabinet and Council resolutions only):

1. DPD functions;
Membership: Both Borough/District Councils with collective voting
2. Development Control functions;
Membership: Both District/Borough Councils with collective voting
3. Option 2 plus County Council
Membership: All three Councils with collective voting
4. DPD and Development Control functions:
Membership: Both Borough/District Councils with collective voting
5. DPD and Development Control functions:
Membership: Both Borough/District Councils with collective voting
Essex Council advisory non-voting membership
6. DPD and Development Control functions:
Membership: All three Councils with collective voting (but not extensive powers of Section 29 joint committee)

Joint Committees established under Section 29 Planning and Compulsory Purchase Act 2004 (Secretary of State approval required):

7. DPD functions
Membership: All three Councils with collective voting
8. DPD and Development Control collective voting
Membership: All three Councils with collective voting

Status Quo:

9. Existing Committees within Tendring and Colchester Councils each retaining DPD functions, for approval by both Councils and determination of planning applications under current rules.

Due to the timetable for production of joint DPD and HIF housing delivery deadlines, it is considered that seeking Secretary of State approval for a Joint Committee with the County Council will cause unnecessary delay which may prevent the establishment of the Joint Committee prior to decisions being required.

The Monitoring Officer's report recommended Option 6 as the proposed model for the establishment of the Joint Committee for TCBGC.

Extract from the draft minutes of the Cabinet meeting of 17 November 2021

608. Local Council Tax Support Scheme 2022-23

The Assistant Director, Customer submitted a report a copy of which had been circulated to each Member.

Councillor Warnes attended and with the consent of the Chair, addressed the Cabinet to highlight the pressures building up in the economy on costs of living, such as inflation and rising energy bills and food costs. Given these pressures and the flexibility each Council had in setting its Council Tax Support Scheme and noting that no change was proposed to Colchester's scheme, had the Portfolio Holder considered helping hard pressed families by matching the Chancellor's 5 pence in the pound reduction in the Universal Credit taper by reducing the current Council Tax taper from 20 pence in the pound to fifteen pence for those earning above a set level before the taper takes effect. This would ensure it supported hard pressed families who were facing the brunt of the cost of living crisis.

A statement from Councillor Cory was read to Cabinet welcoming that no cuts had been made to the Local Council Tax Support Scheme for this year, and praising the hard work carried out by Jason Granger and the Welfare and Benefits Team to support this scheme and many others which help the most vulnerable residents. He had raised at the Scrutiny Panel, and reiterated again, the rising cost of living for many on lower incomes, compounded by Universal Credit cuts and future National Insurance increases, and sought clarification on what analysis the Council was continuing to do of the cohort using the scheme and whether the portfolio holder or officers believed that the Council would need to make the scheme more generous in the future?

Councillor Lissimore, Portfolio Holder for Resources, introduced the report and explained that the scheme helped 9500 residents with a reduction in their Council Tax bill. It was one of the most generous schemes in the region and she was pleased to recommend that it continue. If a more generous scheme was to be brought forward, this would need to be funded via cuts elsewhere. She paid tribute to the work of officers in the Welfare and Benefits teams for the support they provided to residents.

Councillor Dundas, Leader of the Council and Portfolio Holder for Strategy, also stressed the generous nature of the scheme and highlighted the impact inflation was having on the provision of Council services.

RESOLVED that:-

(a) The current working age entitlement be maintained for the fiscal year effective from 1 April 2022.

(b) It be noted that the only amendments from the current scheme are the prescribed regulations and mandated national legislative amendments.

RECOMMENDED TO COUNCIL that the Local Council Tax Support Scheme 2022-23 be approved and adopted

REASONS

Legislation requires that the scheme, effective from 1 April 2022, be agreed by March 2022.

ALTERNATIVE OPTIONS

Changes could be made to the scheme. However, stability to the scheme is being recommended as this will provide residents with support and consistency within the context of the Covid-19 pandemic and the resultant financial instability.

Extract from the draft minutes of the Cabinet meeting of 17 November 2021

609. Officer Pay Policy 2022-23

The Assistant Director, Corporate and Improvement Services, submitted a report a copy of which had been circulated to each Member.

RECOMMENDED TO COUNCIL that the Officer Pay Policy 2022-23 be approved and adopted.

REASONS

The Localism Act requires “authorities to prepare, approve and publish pay policy statements articulating their policies towards a range of issues relating to the pay of its workforce, which must be approved by full Council annually. An authority’s pay policy statement must be approved by a resolution of that authority before it comes into force

ALTERNATIVE OPTIONS

The only alternative would be to not recommend the approval of the Pay Policy Statement, but that would be contrary to the requirements of the Localism Act.

Extract from the draft minutes of the Cabinet meeting of 17 November 2021

614. Nomination of Deputy Mayor 2022-23

Consideration was given to the nomination for the appointment of the Deputy Mayor of the Borough of Colchester for the 2022-23 municipal year.

Councillor Dundas nominated Councillor Jowers for appointment as the Deputy Mayor of the Borough of Colchester for the 2022-23 municipal year. The appointment was supported by all political groups on the Council.

RECOMMENDED TO COUNCIL that Councillor Jowers be appointed as the Deputy Mayor of the Borough of Colchester for the 2022-23 municipal year.

Extract from the draft minutes of the Licensing Committee meeting of 10 November 2021

143. Gambling Act 2005 Policy – Results of Consultation

Jon Ruder, Licensing and Food Safety Manager, attended the meeting to present the report and assist the Committee with its enquiries. The Committee were requested to consider all the responses that had been received to the recent consultation in respect of Colchester Borough Council's (the Council) draft Gambling Act 2005 Policy – Statement of Principles for Gambling 2022-2025, with a view to recommending the draft document to Full Council for formal approval and adoption.

There had been very little feedback to the consultation, with responses being received from Essex Police, who confirmed they were happy with the document, Councillor Cope and Essex County Council Child and Adult Safeguarding Services. Essex County Council Child and Adult Safeguarding Services had made some suggestions to the wording of the Policy and had also requested the addition of a new licensing objective. It was not possible to include the new proposed licensing objective as these objectives were set by legislation, however, the wording of the Policy had been changed in accordance with the comments made, as set out in the report. Councillor Cope had raised a concern about the use of fixed odds betting terminals, but the Committee were advised that the law had changed in relation to these terminals to reduce the potential winnings and amounts which could be staked, making them less attractive to betting operators, and the provision of these terminals was declining as a result.

Councillor Harris voiced his support of the proposed Policy which was regularly reviewed by the Committee. He referred to a recent meeting of the Licensing Sub-Committee which had considered an application made under the Gambling Act 2005, and considered that the iteration of the Policy document that was then in place had provided excellent guidance to the applicant on safeguarding issues. It was right and proper that the Policy was reviewed and the consultation responses that had been received had been helpful. Councillor Harris was very happy with the work that had been carried out by Officers and considered that the Policy document which was being proposed was good and sound.

Councillor Buston echoed the previous comments, and reminded the Committee that a review of the Policy was required by statute and gave an opportunity for minor improvements to be made. The Committee noted its thanks to Officers for the recent training which had been provided in respect of the Gambling Act 2005, and which

had been very helpful when considering the draft Policy in detail.

Councillor Harris questioned the use of the required Local Area Profiles in respect of applications, and, given the changing face of Colchester, wondered how the Local Area Profiles would inform decisions where an area had changed. Jon Ruder explained that every application for a premises licence under the Gambling Act 2005 had to provide a risk assessment relating to the area in which the application was made. This risk assessment had to take account of the locality, including local demographic and population density information together with other local features. Although the Policy itself would remain in place for three years, the Local Area Profile would be regularly reviewed and updated as the area changed so that up to date information was always available for use in formulating risk assessments. It was confirmed to the Committee that the Profile was only used in relation to applications made under the Gambling Act 2005.

Councillor Moore made reference to concerns that had been raised by Committee Members in the past about the about of money that had been potentially taken out of vulnerable communities by gambling establishments, and queried whether it was possible or desirable for the Council to take a view on the location of such establishments. Did the Council have the power to refuse applications on these grounds, and was it advisable to do so? By way of response, Jon Ruder explained to the Committee that applications for a premises licence under the Gambling Act 2005 would be made to the Council, and the applicant was free to choose the area in which they wished to trade. Notwithstanding this, regard had to be given by the applicant to the LAP when making an application, and it was possible for representations to be made against the application, which would mean that the matter would be referred to the Committee to be determined. In reaching a decision, the Committee would have regard to the evidence that was placed before it.

Councillor Buston reminded the Committee that in considering any application, it was required to weigh the evidence provided alongside the Council's Policies. The Committee was concerned with ensuring that future problems that may be caused by an application being granted were prevented as far as was possible, where the evidence provided allowed this. It was considered of key importance that the Policies of the Council were as well written as possible to help to guard against future problems arising, as every applicant needed to have regard to the both the Council's Policies and the licensing objectives.

The Committee considered whether it would be appropriate to object to an application for a betting shop, if one should be made for a premises in an area which already had two well run shops, on the grounds that this may have an overall negative impact on the local community. Jon Ruder advised the Committee that there was no cumulative impact zone in place in Colchester, and every application

would be decided on its own merits. It was for ward Councillors and local residents to raise concerns in respect of an application if they felt that this was appropriate.

RESOLVED that:

(a) the Committee had considered the consultation responses and proposed amendments to Colchester Borough Council's Statement of Principles for Gambling;

(b) the draft Statement of Principles be agreed.

RECOMMENDED to COUNCIL that the Gambling Act 2005 Policy – Statement of Principles for Gambling 2022-2025 be approved and adopted and included within the Policy Framework.

Extract from the draft minutes of the Governance and Audit Committee meeting of 23 November 2021

290. Review of the Council's Ethical Governance Policies

Andrew Weavers, Strategic Governance Manager, attended the meeting to present the report and assist the Committee with its enquiries. The Committee was advised that it was requested to review the updated set of Ethical Governance Policies which were presented to it, before making a recommendation to Full Council that the Policies were included in Colchester Borough Council's (the Council) Policy Framework. It was considered that the Council's Ethical Governance Policies as presented to the Committee were fit for purpose.

The Council was committed to maintaining the highest standards of corporate and ethical governance, and the policies detailed how the Council would achieve that commitment. The Committee were advised that the Council's Statement of Intent had been refreshed following the latest change in Administration and Leader, and the Committee was also requested to recommend to Full Council that the Statement be adopted.

Councillor Willetts made reference to the fact that it had been unnecessary to invoke any of the Policies over the preceding year, and indeed very few times in previous years, and considered that this demonstrated how effective they had been. The Committee were invited to raise a question or make a comment on each of the Policies presented to it which were listed in turn, but no comments were received.

Councillor Bentley noted that the Policies contained a lot of information, and wondered whether it would be appropriate to circulate them to all Councillors ahead of their being presented to Full Council. New Councillors in particular may value the opportunity to read through the Policies before being asked to vote on them. It was confirmed to the Committee that the Policies would be circulated as soon as possible after the meeting.

Councillor Kind praised both the depth and value of the Policies in offering the public assurance that, no matter their political background or differences, Councillors conducted themselves in a fair and transparent manner, and in accordance with the codes and rules that were set.

RESOLVED that:

1. It be ***RECOMMENDED TO FULL COUNCIL*** that it adopts the statement of intent in relation to ethical governance.

2. The following revised policies had been reviewed, and it be *RECOMMENDED TO FULL COUNCIL* that they be approved for inclusion in the Council's Policy Framework:

- Anti-Fraud and Corruption Policy
- Whistleblowing Policy
- Anti-Money Laundering Policy
- Covert Surveillance Policy
- Colchester Borough Council Social Media RIPA Policy
- Data Protection Policy
- Acceptable Use Policy
- Information Security Policy
- Retention Policy
- Income and Debt Management Policy

Extract from the draft minutes of the Governance and Audit Committee meeting of 23 November 2021

292. Review of the Local Code of Corporate Governance

Hayley McGrath, Corporate Governance Manager, attended the meeting to present the report and assist the Committee with its enquiries. The Committee heard that the Local Code of Corporate Governance was the overarching document which drew the Council's Governance Policies together, and demonstrated how the Council's structures complied with the recognised principles of good governance.

The principles of good governance were set out by The Chartered Institute of Public Finance and Accountancy (CIPFA) and The Society of Local Authority Chief Executives (SOLACE), in a document published in 2007. This document had been updated in 2016, and set out six principles how local authorities should account to, engage with, and lead their local communities, and covered the actions of both Officers and Members.

The Local Code had been reviewed and demonstrated how the Council was meeting the six principles, and highlighted current or ongoing work in respect of this compliance, which was linked to the Council's Annual Governance Statement.

The Local Code had been reviewed and updated to reflect the strategic priorities for investment and the Covid-19 recovery programme, along with the continued commitment to developing hybrid meeting processes. Apart from these changes, there had been no amendments to the Local Code, and the Committee were advised that it was still fit for purpose.

Councillor Willetts noted that in the past the Committee had debated the wording of core principle two, and had expressed some reservations around the sentiment of 'Councillors working together to achieve a common purpose'. It had been agreed that the wording used by the Council would be amended to show that Councillors were working together to deliver the Council's Strategic Plan, and Councillor Willetts sought assurance that this had been reflected in the Local Code. Hayley McGrath confirmed that although the wording in the report had been drawn directly from the published principles, the Council's own code reflected correctly the previously expressed wishes of the Committee with regard to working together to deliver the Strategic Plan.

RESOLVED that: the updated Local Code of Corporate Governance for 2021/22 had been reviewed, and it was *RECOMMENDED TO FULL COUNCIL* that the updated Local Code of Corporate Governance be approved for inclusion in the Council's Policy Framework.

Report of	Assistant Director of Corporate and Improvement Services	Author	Richard Clifford
Title	Authorisation of absence from Council and Committee meetings		
Wards affected	Mile End		

1. Executive Summary

1.1 Council can provide a dispensation to Councillors from the provisions of section 85 of the Local Government Act 1972 and authorise continued absence from Council or Committee meetings. This report invites Council to authorise such a dispensation for Councillor Coleman.

2. Recommended Decision

2.1 To approve the absence of Councillor Coleman from attendance at Council and Committee meetings for a period of six months from 10 December 2021, pursuant to the provisions of section 85 of the Local Government Act 1972.

3. Reason for Recommended Decision

3.1 Council needs to authorise the absence of Councillor Coleman in line with the provisions of section 85 of the Local Government Act. If Council does not do so, he will cease to be a member of Colchester Borough Council.

4. Alternative Options

4.1 No alternative options are proposed.

5. Background Information

5.1 Section 85 of the Local Government Act 1972 provides that if a member of a local authority fails to attend any Council or Committee meeting for a period of six months he or she ceases to be a member of the local authority unless the absence was approved by Council before the expiry of the six month period.

5.2 Councillor Coleman has not been able to attend any Council or Committee meetings for several months due to ill health. He last attended a meeting on 10 June 2021.

5.3 Under the circumstances it is requested that Council approve his continued absence for a period of six months from 10 December 2021. This would be consistent with previous decisions by Council when other Councillors have faced similar issues and also would be supportive to Councillor Coleman. The extension would not prevent Councillor Coleman from returning to meetings at any time but would give flexibility and prevent further recourse to Council before the end of the municipal year.

6. Standard References

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

**Record of Decisions taken under Scheme of Delegation to Cabinet Members
7 October – 19 November 2021**

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

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

Portfolio – Economy, Business and Heritage					
Date	Number	Report Title	Author	Decision	Result
8 October 2021	BUS-002-21	Award of Contract for Demolitions Works at Queen Street Bus Depot	Matthew Brown	<p>To award a contract to Squibb Group to undertake the works for a contract period to the beginning of 2022. This award is subject to Planning and Scheduled Ancient Monument consents being obtained.</p> <p>If the Recommended Bidder cannot fulfil their obligations under the contract, to award a contract to the next highest ranked bidder.</p>	15 October 2021

**Record of Decisions taken under Scheme of Delegation to Cabinet Members
7 October – 19 November 2021**

Portfolio – Housing and Planning					
Date	Number	Report Title	Author	Decision	Result
6 October 2021	HOU-006-21	Review of Rent Setting and Service Charge Policy	Suzanne Norton	<ul style="list-style-type: none"> To approve the addition of Appendix D which sets out the principles for Rent Setting and Service Charges for properties used as Temporary Accommodation not held within the Housing Revenue Account. To approve minor amendments to the policy to ensure it continues to meet current legislation, procedures and working practices and is clear and concise for all users. 	Decision agreed 13 October 2021
13 October 2021	HOU-007-21	Award of Contract for Garage Refurbishment	Geoff Beales	To award a contract to R G Carter Southern Ltd for the refurbishment of 52 garages across the following wards (Greenstead, Lexden, Peldon, Shrub End, Stanway and Tiptree).	Decision agreed 20 October 2021

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

Portfolio – Strategy					
No decisions in this period					

Report of	Monitoring Officer	Author	Andrew Weavers
Title	Establishment of a Joint Committee for Tendring Colchester Borders Garden Community		282213
Wards affected	Not applicable		

1. Executive Summary

- 1.1 The Tendring Colchester Borders Garden Community (TCBGC) is located across Colchester and Tendring's Local Planning Authority's area; accordingly the Borough/District Councils can consider establishing a Joint Committee made up of members from each of their Councils.
- 1.2 Both Colchester and Tendring have now adopted a common Section 1 of their Local Plan, which has the shared vision of sustainable development and allocation of TCBGC, which will be further defined through a joint Development Plan Document (DPD) providing detailed parameters and policies (as required within Section 1 – Policies SP7 & 8).
- 1.3 Because of the joint nature of Section 1 there is a case to be made for a Joint Committee for Colchester and Tendring, and include members from Essex County Council, continuing with the existing partnership working on this project. This format has been adopted elsewhere and links into decisions around infrastructure and possibly other County matters.
 - (i) It is possible to delegate various functions to a Joint Committee but at this stage the proposed Terms of Reference would be limited to planning functions related to preparing for plan making through the DPD process; and
 - (ii) development control and determination of planning applications for TCBGC against the common Section 1 and adopted DPDs.
- 1.4 Essex County Council have also proposed to delegate their relevant planning functions to the Joint Committee for Tendring Colchester Borders.
- 1.5 The alternative to establishing a Joint Committee, is to leave the current arrangements in place such that Cabinet and/or the relevant Committee of both Councils would be involved in the decision making process for production of the Draft DPD. Once the DPD is adopted, the relevant Council's Planning Committee would deal with any individual planning application in their area. This latter option could present some complications associated with managing the practicalities, delay the process and it is considered beneficial to advance the joined up and partnership approach through to decision making.
- 1.6 The Tendring Colchester Borders Garden Community Member Group have assessed the various options and consider the joint committee approach for both the TCBGC joint DPD and Development Control functions will demonstrate the Councils continued partnership

commitment to delivering the Garden Community, provide increased confidence to the developers and remove delayed individual decision making through working together for the benefit of the residents in both areas.

- 1.7 The establishment of the Joint Committee will be limited to the TCBGC and all other local planning authority functions will remain unaffected and rest with Colchester Borough Council / Tendring District Council.
- 1.8 The proposed Terms of Reference of the TCBGC Joint Committee are set out in Appendix A and consequential amendments to the Borough Council's Local Plan Committee are set out in Appendix B.
- 1.9 Further executive functions related to the TCBGC can be delegated by the Leader, as the project develops and a partnership agreement may be deemed necessary between the Councils to formulate arrangements between them.

2. Recommended Decision

2.1 That Cabinet:

- (a) agrees that a joint Development Plan Document is being prepared with Tendring District Council and that that a Joint Committee is established with Tendring District Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community;
- (b) subject to (a) agrees that all three Councils should be represented on the appointed Joint Committee with full voting rights;
- (c) executive functions in relation to the preparation of the joint Development Plan Document are delegated to be discharged by the appointed Joint Committee in accordance with Sections 101(5) and 102(1)(b) of the Local Government Act 1972;
- (d) agrees each Council should be represented on the appointed Joint Committee with 3 members under Section 102(2) of the Local Government Act 1972, one of which will be a member of the Cabinet, appointed by the Leader;
- (e) agrees the Terms of Reference for the Joint Committee, as set out in Appendix A for recommendation onto Full Council in respect of non-executive functions;
- (f) endorses support to the Leader to delegate further executive functions to the for Tendring Colchester Borders Garden Community Joint Committee, in consultation with the Monitoring and Section 151 Officers;
- (g) delegates authority to the Assistant Director Place and Client Services, in consultation with the Leader and Portfolio Holder for Resources to enter into a partnership agreement between the Councils, if deemed necessary to support the operation of the Joint Committee and the Tendring Colchester Borders Garden Community project; and
- (h) Recommends to Full Council that:
 - (i) a Tendring Colchester Borders Garden Community Joint Committee is appointed for the discharge of executive and non-executive functions related to Tendring Colchester Borders Garden Community, pursuant to Sections 101(5), 102(1)(b) and

102(2) of the Local Government Act 1972 on the terms of reference attached at Appendix A and that the Council's membership be agreed by the Leader;

- (ii) the Council enters into an agreement with Tendring District Council under section 28 of the Planning and Compulsory Purchase Act 2004 in relation to the preparation of a joint Development Plan Document in relation to Tendring Colchester Borders Garden Community;
- (iii) Part 3 – Responsibility of Functions of the Constitution is amended to include the Terms of Reference of the Joint Committee; and
- (iv) The Terms of Reference of the Local Plan Committee be amended as set out in Appendix B and that the Constitution be amended accordingly.

3. Reasons for Recommended Decision

- 3.1 To ensure appropriate governance and decision making arrangements are in place between the partner Council's in relation to Tendring Colchester Borders Garden Community.

4. Alternative Options

- 4.1 The arrangements, for both plan making (planning policy) and development control purposes (determination of planning applications), to be considered are:

Joint Committees established under Section 101 Local Government Act 1972 (Cabinet and Council resolutions only):

- 1. DPD functions;
Membership: Both Borough/District Councils with collective voting
- 2. Development Control functions;
Membership: Both District/Borough Councils with collective voting
- 3. Option 2 plus County Council
Membership: All three Councils with collective voting
- 4. DPD and Development Control functions:
Membership: Both Borough/District Councils with collective voting
- 5. DPD and Development Control functions:
Membership: Both Borough/District Councils with collective voting
Essex Council advisory non-voting membership
- 6. DPD and Development Control functions:
Membership: All three Councils with collective voting (but not extensive powers of Section 29 joint committee)

Joint Committees established under Section 29 Planning and Compulsory Purchase Act 2004 (Secretary of State approval required):

- 7. DPD functions

Membership: All three Councils with collective voting

8. DPD and Development Control collective voting

Membership: All three Councils with collective voting

Status Quo:

9. Existing Committees within Tendring and Colchester Councils each retaining DPD functions, for approval by both Councils and determination of planning applications under current rules.

4.2 Due to the timetable for production of joint DPD and HIF housing delivery deadlines, it is considered that seeking Secretary of State approval for a Joint Committee with the County Council will cause unnecessary delay which may prevent the establishment of the Joint Committee prior to decisions being required.

4.3 This report recommends Option 6 as the proposed model for the establishment of the Joint Committee for TCBGC.

5. Supporting Information

5.1 Section 1 of the Local Plan adopted by Full Council on 1 February 2021 contains a specific Policy (SP 8) for the Development & Delivery of a New Garden Community in North Essex, which states:

“Tendring/Colchester Borders, a new garden community which will deliver between 2,200 and 2,500 homes, 7 hectares of employment land and provision for Gypsies and Travellers within the Plan period (as part of an expected overall total of between 7,000 and 9,000 homes and 25 hectares of employment land to be delivered beyond 2033).

The garden community will be holistically and comprehensively planned with a distinct identity that responds directly to its context and is of sufficient scale to incorporate a range of homes, employment, education & community facilities, green space and other uses to enable residents to meet the majority of their day-to-day needs, reducing the need for outward commuting. It will be comprehensively planned from the outset, with delivery phased to achieve the whole development, and will be underpinned by a comprehensive package of infrastructure.

A Development Plan Document (DPD) will be prepared for the garden community, containing policies setting out how the new community will be designed, developed and delivered in phases, in accordance with the principles in paragraphs i-xiv below. No planning consent for development forming part of the garden community will be granted until the DPD has been adopted”.

5.2 All development forming part of the garden community will comply with the principles set out in SP8.

5.3 Requirements of the Tendring/Colchester Borders Garden Community Development Plan Document (DPD) are set out in Policy SP 9 of the adopted Section 1 of the Local Plan and states:

“The adoption of the DPD will be contingent on the completion of a Heritage Impact Assessment carried out in accordance with Historic England guidance. The Heritage Impact Assessment will assess the impact of proposed allocations upon the historic

environment, inform the appropriate extent and capacity of the development and establish any mitigation measures necessary. The DPD will be produced in consultation with the local community and stakeholders and will include a concept plan showing the disposition and quantity of future land-uses, and give a three dimensional indication of the urban design and landscape parameters which will be incorporated into any future planning applications; together with a phasing and implementation strategy which sets out how the rate of development will be linked to the provision of the necessary social, physical and environmental infrastructure to ensure that the respective phases of the development do not come forward until the necessary infrastructure has been secured. The DPD and any application for planning permission for development forming part of the garden community must be consistent with the requirements set out in this policy.

For the Plan period up to 2033, housing delivery from the garden community, irrespective of its actual location, will be distributed equally between Colchester Borough Council and Tendring District Council. If, after taking into account its share of delivery from the garden community, either of those authorities has a shortfall in delivery against the housing requirement for its area, it will need to make up the shortfall within its own area. It may not use the other authority's share of delivery from the garden community to make up the shortfall."

The Local Plan Committee at its meeting on 10 June 2021 received an update on the TCBGC DPD.

Local Development Scheme (LDS) including TCBGC DPD

- 5.4 The Council's Local Development Scheme (LDS) was approved by the Local Plan Committee on 10 June 2021, which sets out an indicative timetable for preparing key planning documents. It is particularly useful for the public, partner organisations and third parties to understand, broadly, the programme of work and how the Council proposes to resource and manage it. The LDS covers the adoption of the new Local Plan, the Tendring Colchester Borders Garden Community Development Plan Document (DPD); the future review of the Local Plan and the production of other key planning documents. It includes the anticipated timetable of consultation periods, examinations and expected dates of adoption.
- 5.5 The LDS refers to the Tendring Colchester Borders Development Plan Document (DPD) for the TCBGC. A DPD follows the same process for preparation as a Local Plan. It builds on policy or policies in the Local Plan and provides significantly more implementation detail. Any DPD for TCBGC will require the co-operation and collaboration with Tendring District Council. This DPD in Tendring's LDS is described as a 'Strategic Growth DPD'. In Section 1 of the Adopted Local Plan, Policy SP8 states: *"The Strategic Growth DPD will set out the nature, form and boundary of the new community. The document will be produced in consultation with stakeholders and will include a concept plan showing the disposition and quantity of future land-uses, and give a three dimensional indication of the urban design and landscape parameters which will be incorporated into any future planning applications; together with a phasing and implementation strategy which sets out how the rate of development will be linked to the provision of the necessary social, physical and environmental infrastructure, to ensure that the respective phases of the development do not come forward until the necessary infrastructure has been secured. The DPD will provide the framework for the subsequent development of more detailed masterplans and other design and planning guidance for the Tendring / Colchester Borders Garden Community."*

- 5.6 The LDS sets out the following timetable for the production, consultation and approval of the TCBGC joint DPD:

Tendring Colchester Garden Community Development Plan Document Joint (DPD)	
Subject and scope	This document will contain policies and allocations to guide the new Garden Community proposed at the Tendring/Colchester border. This DPD will be produced jointly with Tendring District Council.
Geographical area	The broad location for the Garden Community is identified in the Section 1 Local Plan.
Chain of conformity	Conform with the broad allocation in the joint strategic Section 1 Local Plan with Tendring and Braintree District Councils
Document Preparation	Winter 2020/21 – Winter 2021/22
Member approval of draft DPD	Winter 2021/22
Draft DPD Consultation	Winter 2021/22
Document Preparation	Spring 2022 – Autumn 2022
Member approval of submission DPD for consultation	Autumn 2022
Submission DPD Consultation	Autumn 2022
Submission to Secretary of State	Winter 2022
Independent Examination	Winter 2022/23
Inspector's report	Spring 2023
Consultation on modifications	Summer 2023
Adoption	Summer/Autumn 2023

TCBGC Member Group:

- 5.7 Colchester, Essex and Tendring Councils (the Partner Councils) recognise their strategic executive objectives, contractual responsibilities and statutory functions covering highways, education and planning functions and the inter-relationship between these in delivering the Garden Community.
- 5.8 Essex County Council has been working with Homes England (acting on behalf of the Ministry Housing Communities and Local Government now the Department for Levelling Up, Housing and Communities) to enter into formal contract (Grant Determination Agreement (GDA)) with one another for the Housing Infrastructure Fund (HIF). Within the GDA there are a number of responsibilities on Essex County Council as the Grant Recipient which will impact upon the delivery of the programme and Essex County Council will ensure they keep the Colchester Borough Council and Tendring District Council (the LPAs) informed of progress or delays in this regard.
- 5.9 The Partner Councils have signed a Memorandum of Understanding setting out how they will work together towards their intended objective of unlocking development at Tendring Colchester Borders Garden Community (TCBGC) as well as demonstrating the LPAs agreement with the content of the Housing Delivery Statement and the Recovery and Recycling Strategy but was not intended to create any contractual arrangement between the Partner Councils.

- 5.10 The Partner Councils have established a TCBGC Member Group whose purpose is to continue the strong partnership working arrangements which existed prior to the formation of NEGC Ltd and during its trading and provide political oversight of the delivery of the Tendring Colchester Garden Community. The Group is not a formal decision-making body.
- 5.11 The Partner Councils are committed to the Garden Community Principles and will collectively work together to deliver and oversee the programme in an open and transparent manner. The Member Group will continue its role alongside any newly established Joint Committee.

HIF

- 5.12 The Tendring Colchester Borders Garden Community indicative housing trajectory, produced based on evidence to support the shared Section 1 of the Local Plans states that the first 100 homes will be delivered on site by 2024/25. At Essex County Council's Development and Regulation Committee on 1 November 2021, the planning application for the link road was approved.
- 5.13 The options for a Joint Committee have been considered by the TCBGC Member Group, which Councillor Dundas and Councillor Ellis (together with Councillor Cory as an observer) attend on behalf of Colchester Borough Council. Through assessment of the options the proposed Terms of Reference have been discussed and it is recommended that those attached as Appendix A are adopted by Colchester, Tendring and Essex Councils to formally appoint the Joint Committee to exercise these functions delegated to it.
- 5.14 Essex County Council are proposing to delegate their Local Authority Planning functions to the Joint Committee for Tendring Colchester Borders.

In exercising the above functions, the kind of matters that would fall to the joint Committee to consider, in the determination of planning applications would include:

- Housing – all tenures (market, affordable, and specialist housing for elderly persons etc)
- New schools (primary, secondary, special education needs early years and post 16)
- Community centre, community hub and library
- leisure uses, sports provision, and allotments
- Country parks, recreation and public open space
- Any waste development proposals.
- Sustainable Urban Drainage
- Town/neighbourhood centre(s) and associated shops (all shapes and sizes)
- Public realm, footpaths and dedicated cycle routes/network
- All new roads and road crossing within the Garden Community
- Any segregated/dedicated bus routes
- Commercial and employment sites, including energy for waste proposals.
- Minerals planning applications.

In addition the joint Committee would also have a role in considering:

- The heads of terms for S106 obligations relating to the mitigation measures, necessary infrastructure and affordable housing required to deliver a policy compliant development.

- Development viability, where relevant, in relation to S106 obligations.
 - Stewardship model aligned to the S106 and associated permissions.
 - Ongoing monitoring of the compliance of development with agreed permissions, related obligations/conditions and its implementation to an agreed standard.
- 5.15 The proposed Joint Committee will be appointed by both Cabinet and Council with regards to the executive and non-executive functions, as set out and will consist of 3 members from each Council, one of which has to be a member of each Council's respective Cabinets, appointed by the Leader. Each authority will have equal voting rights with the Chairman rotating annually.
- 5.16 It is not currently proposed that the Joint Committee will replace the TCBGC Member Group, as the role of the former will be to oversee the preparation of the statutory process for both the joint DPD production and determining subsequent planning applications within the Garden Community. The TCBGC Member Group has responsibility for the delivery of the Garden Community providing overarching strategic direction, working collaboratively across the 3 Councils and with the developers, where such involvement does not compromise the Councils' statutory decision making processes. Although it is not currently being suggested that this partnership approach is formalised beyond the existing terms of reference of the TCBGC Member Group, this will be kept under review as discussions with the Developers progress. Delegation is sought for the Assistant Director Place and Client Services in consultation with the Leader and Portfolio Holder for Resources to negotiate any partnership agreement considered necessary between the Councils for the purposes of jointly exercising executive functions in regards of the TCBGC.
- 5.17 The development of the TCBGC will be underpinned by a comprehensive 'masterplanned' approach informed by technical research and evidence as well as the feedback received through stakeholder engagement. The masterplanning work already being undertaken by the authorities working with consultants Prior + Partners will inform key elements of the joint DPD that will go before the proposed joint Committee for consideration, including the overall spatial layout of the TCBGC and the policies within the joint DPD that will be used in the determination of future planning applications. In turn, there will be an expectation for applicants for planning permission to also follow a masterplanned approach both in conforming to the requirements of the joint DPD and in generating more detailed proposals and design approaches for relevant phases of the development.
- 5.18 Mersea Homes hold options over the majority of the land within the TCBGC area and they have recently announced they are working with a lead development partner, Latimer to develop the TCBGC.
- 5.19 Latimer is the development arm of Clarion Housing Group. Clarion Housing is the UK's largest housing association, owning and managing 125,000 homes. The Councils will work closely and effectively with the Developers in overseeing the planning and delivery of the TCBGC. This partnership will be governed by planning and/or delivery agreements. From a planning perspective Planning Performance (PPAs) and Memoranda of Understanding (MoUs) set out how the parties will work together to comprehensively plan the TCBGC through the strategic and development management phases.
- 5.20 Due to the Joint Committee being established the terms of reference of the Council's Local Plan Committee will need to be amended, as proposed in Appendix B. This amendment reflects that the Local Plan Committee's remit in relation to a decision on

whether to do a joint Local Plan or Supplementary Planning document and the creation of a joint committee with another authority will remain but excluding those decisions which have been delegated to the Joint Committee in relation to Tendring Colchester Borders Garden Community.

Timetable:

- 5.21 In accordance with the LDS, Member approval of the draft joint DPD is due to in Winter 2021/22, therefore any Joint Committee should be established by the end of the calendar year for 2021 to ensure the decision making is not delayed impacting upon the project delivery programme. Once the joint DPD is adopted, the Developers will apply for planning permission in accordance with the policy requirements and design standards within the joint DPD during 2023. This allows for delivery on site by 2024/25 to meet the requirements of the HIF grant.

6. Strategic Plan References

- 6.1 All themes in the Strategic Plan are relevant, in particular: Delivering homes for people who need them. 'Create new communities and adopt a new Local Plan that delivers jobs, homes and the infrastructure to meet the borough's future needs' is a priority under this theme and the Garden Community DPD is referred to.

7. Financial Implications

- 7.1 The funding of the Joint Committee will be funded via the project costs however the responsibility for the administration of the committee will sit with Tendring District Council until agreed otherwise.

8. Legal Implications

- 8.1 Every Local Planning Authority must prepare and maintain a Local Development Scheme (LDS) in accordance with Section 15 of Planning and Compulsory Purchase Act 2004 (as amended). The LDS is the Council's rolling project plan (often covering a period of three years) for producing its Local Development Documents and sets out a timetable for the delivery. The LDS must identify:
- which of their Local Development Documents are local plans or supplementary planning documents;
 - the subject matter and geographical area to which any local plan relates;
 - which local plans (if any) are to be prepared jointly with another Council and
 - the timetable for the preparation and revision of the local plans.
- 8.2 Local Planning Authorities must revise their LDS at such time as they consider appropriate and make available to the public the up-to-date text and a copy of any amendments made and published on the Council's website, together with up-to-date information showing compliance (or non-compliance) with the timetable.
- 8.3 Under Section 28 of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act"), two or more local authorities may agree to prepare one or more joint local development documents. Pursuant to Regulation 4(4A) and (4C) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the making of an agreement to prepare one or more joint development plan documents shall not be the responsibility of an executive of the authority. The decision therefore to agree to prepare a joint development plan document must therefore be made by Full Council. The Local Plan

Committee, at its meeting on 10th June 2021 approved the updated LDS for 2021-24, which made reference to the jointly prepared DPD with Tendring for the TCBGC however, a formal agreement is required under Section 28 of the 2004 Act. Due to the timescales involved this report contains a recommendation to Full Council recommending this agreement with the consent of the Chair of the Local Plan Committee.

- 8.4 Section 29 of the 2004 Act provides that if one or more local planning authorities agree with a county council to establish a joint committee for the purposes of the plan-making system, such as the production and approval of Local Development Documents, Secretary of State's approval is required. An Order under Section 29 must specify the authorities and the county council who will constitute the joint committee and may make provision as to such other matters as the Secretary of State thinks are necessary or expedient to facilitate the exercise by the joint committee of its functions. Any application to the Secretary of State for an Order under Section 29 would include proposed terms of reference and standing orders.
- 8.5 A Joint Committee established under Section 29 can only be dissolved by the Secretary of State. Due to the timetable for production of joint DPD and HIF housing delivery deadlines, it is considered that seeking Secretary of State approval for a Joint Committee under Section 29 of the 2004 Act will cause unnecessary delay which may prevent the establishment of the Joint Committee prior to decisions being required. This option has therefore been discounted although, it must be noted consequently, certain decisions will still be required by the individual Councils.
- 8.6 Alternatively, the Councils may establish a Joint Committee using Sections 101(5), 102(1)(b) and 102(2) of the 1972 Act, through resolution of Cabinet for executive and Full Council for non-executive responsibilities.
- 8.7 The DPD process and Development Control functions involve both executive and non-executive responsibilities therefore it is important to ensure the correct decision making body is delegating the right functions to any Joint Committee. Only planning functions relating to TCBGC are proposed for delegation at this time however, this can be expanded once the governance arrangements with the developer and their partners evolve.
- 8.8 Section 101(5) of the Local Government Act 1972 enables two or more local authorities to discharge any of their functions by a joint committee, where arrangements are in force for them to do so. Section 9EA of the Local Government Act 2000 enables the Secretary of State to make regulations to allow an executive of a local authority to arrange for the discharge of any executive functions. This includes arrangements with other authorities.
- 8.9 The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 (SI 2012 no. 1019) were made pursuant to Section 9EA. Regulation 4 of the 2012 Regulations provides the Leader and Cabinet with the power to make arrangements for executive functions to be discharged jointly. Part 4 of those regulations sets out the legal framework for the joint exercise of functions.
- 8.10 Regulation 11(2) will apply where at least one of the functions is one which is the responsibility of an executive and the arrangements may provide for one joint committee to discharge all of the functions which are the subject of the arrangements on behalf of those authorities.

- 8.11 Regulation 11(5) confirms that where functions are to be discharged by the joint committee relate to those of Council and its Committees the appointment of the joint committee is to be made under Section 102(1)(b) of the 1972 Act.
- 8.12 Regulation 11(7) confirms arrangements can be made for a joint committee to discharge executive and non-executive functions, the appointment of the joint committee is made under Section 102(1)(b) of the 1972 Act, with the numbers appointed and their term of office fixed by Council, with the agreement of Cabinet.
- 8.13 Officers are permitted to be given delegated powers from a Joint Committee and the scheme of delegation is referred in its Terms of Reference.
- 8.14 Regulation 12(4) requires that where the joint committee is discharging executive functions, at least one member of the authority's Cabinet must be a member of the joint committee (appointed by the Leader).
- 8.15 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) specify functions which are not to be the responsibilities of an authority's Cabinet or are to be the responsibility of such an executive only to a limited extent or only in limited circumstances.
- 8.16 Paragraphs (1) to (3) of Regulation 4 allocate responsibility for various aspects of functions relating to the formulation and preparation of plans and strategies of the descriptions specified in Schedule 3 between a Council and their Cabinet. Schedule 3 lists Development Plan Documents as defined by Section 15 of the 2004 Act. Therefore, whilst the formulation and preparation of the DPDs are executive functions and can be discharged by a joint committee, some actions relating to the DPD process are designated to Full Council and these have been reflected in the Terms of Reference as proposed in Appendix A.
- 8.17 Full Council, upon recommendation from Cabinet, can agree to the appointment of the Joint Committee for the Development Control functions and act as planning authority in that regard.
- 8.18 The proposed Terms of Reference for the Joint Committee are attached to the Report as Appendix A.
- 8.19 The Constitution will require amending to reflect the creation of the Joint Committee etc.
- 9.0 Equality, Diversity and Human Rights, Publicity and Consultation, Community Safety, Health and Safety, and Environmental and Sustainability Implications**
- 9.1 The establishment of a Joint Committee itself would not have any direct impact on these considerations however, it is important to recognise that the work of the Joint Committee will still involve public consultation, statutory and otherwise through a detailed community engagement strategy. All environmental and equality considerations are taken into account through plan making and individual decision making of the Joint Committee.

10.0 Risk Management

- 10.1 Nothing other than those risks mentioned in the report.

Background Papers

None

PROPOSED TERMS OF REFERENCE FOR TENDRING COLCHESTER BORDERS GARDEN COMMUNITY JOINT COMMITTEE

1. Parties:

- (1) Tendring District Council (“TDC”)
- (2) Colchester Borough Council (“CBC”)
- (3) Essex County Council (“ECC”)

2. Status:

- 2.1 This Committee is a joint committee formed by resolutions of the Cabinets and Full Councils of TDC, CBC and ECC pursuant to sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972. The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 Regs 11 (7) and 12 (4) *(These regulations determine arrangements involving joint committees and membership)*.
- 2.2 TDC and CBC have agreed pursuant to Section 28 of the Planning and Compulsory Act 2004 to prepare a joint local development document, for the purposes of these Terms of Reference to be known as TCBGC DPD, although the name of the Garden Community may change throughout the process.

3. Membership:

- 2 members appointed by TDC (1 of which must be the Chairman of the Planning Policy and Local Plan Committee) plus 1 Cabinet member appointed by the Leader
 - 2 members appointed by CBC (1 of which must be the Chairman of the Local Plan Committee) plus 1 Cabinet member appointed by the Leader
 - 3 Members appointed by ECC (1 must be a member of the Cabinet)
- 3.1 All members of the Committee shall have undertaken suitable training which shall have been approved by the parties.

4. Terms of reference:

- 4.1 The Committee's remit is to jointly discharge the functions (“the Functions”) set out in Appendix 1 in relation the Tendring Colchester Borders Garden Community, the exercise of which have been delegated to the Committee by TDC, CBC and ECC, subject to the limitation in paragraphs 4.3 and 4.4.
- 4.2 The functions delegated by TDC, CBC and ECC include: -
 - (a) The exercise of the Council’s functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:
 - a. is in accordance with the Local Development Schemes;
 - b. includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaption, to climate change;
 - c. meets the “tests of soundness” as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;

- d. has regard to the adopted Section 1 of CBC & TDC's Local Plan;
- e. has regard to the resources likely to be available for implementing the proposals in the document;
- f. other such matters the Secretary of State prescribes; and
- g. complies with the Council's Statement of Community Involvement

(b) the power to formulate and prepare a draft Joint Development Plan Document for consultation under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012;

(c) carry out an appraisal of the sustainability of the proposals within the joint TCBGC DPD and approve the findings of the appraisal;

(d) make recommendations to TDC and CBC in relation to the approval of the TCBGC DPD for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the 2004 Act, and consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012;

(e) consideration of amendments or modifications of the joint TCBGC DPD recommended by the person carrying out the independent examination under section 20 of the 2004 Act;

(f) recommend to CBC and TDC adoption of Joint Development Plan Documents in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012; and

(g) the power of the TDC and CBC as local planning authority to determine planning applications by virtue of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

(h) To exercise TDC, CBC and ECC's local planning authorities' powers and duties in relation to development control including for the avoidance of doubt the power to approve authorise and direct the respective Local Planning Authorities to enter into agreements regulating the development or use of land pursuant to S106 of the Town and Country Planning Act 1990 and related powers.

4.3 Note that the following are the sole responsibility of TDC and CBC's full Council's:

- a) Responsibility for giving of instructions to the Cabinet to reconsider the draft plan submitted by the Cabinet for the Council's consideration.
- b) The amendment of the draft joint development plan document submitted by the Cabinet for the full Council's consideration.
- c) The approval of the joint development plan document for the purposes of consultation submission to the Secretary of State for independent examination.
- d) The adoption of the joint development plan document.

4.4 The Committee shall discharge the functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) falling wholly or substantially within the Tendring Colchester Borders Garden Community area shown coloured purple on the plan contained at Appendix 2.

4.5 The Committee may exercise the subsidiary powers authorised pursuant to section 111, Local Government Act 1972 in connection with the discharge of the functions.

- 4.6 The Committee may exercise the powers of delegation contained in section 101(2), Local Government Act 1972 and agree a Scheme of delegation to officers.
- 4.7 TDC, CBC or ECC may request an application to be considered by the Committee in accordance with an agreed scheme.
- 4.8 All members of the Committee shall be entitled to vote on any matter to be determined by the Committee.

5. Standing Orders

- 5.1 The Committee shall be governed by the Standing Orders set out in Appendix 3.
- 5.2 The Committee shall have the power to amend the Standing Orders from time to time within the scope of these Terms of Reference following consultation with Monitoring Officers.

6. Administration

- 6.1 The Council which is the local planning authority shall receive applications relating to the functions in the usual way and shall be responsible for all administrative stages leading to and flowing from the exercise of the functions.
- 6.2 The administration of the Committee will be undertaken by TDC who shall be responsible for all matters connected with the administration of the Committee, including the preparation and dispatch of agendas and securing premises at which the Committee may meet.

Functions delegated by Tendring District Council,
Colchester Borough Council and Essex County Council to the Joint Committee
in relation to Tendring Colchester Borders Garden Community.

1. The functions delegated by TDC and CBC: -

- (a) To exercise the Council's functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:
 - a. is in accordance with the Local Development Schemes;
 - b. includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaption, to climate change;
 - c. meets the "tests of soundness" as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;
 - d. has regard to the adopted Section 1 of CBC & TDC's Local Plan;
 - e. has regard to the resources likely to be available for implementing the proposals in the document;
 - f. other such matters the Secretary of State prescribes; and
 - g. complies with the Council's Statement of Community Involvement
- (b) the power to formulate and prepare a draft Joint Development Plan Document for consultation under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
- (c) carry out an appraisal of the sustainability of the proposals within the joint TCBGC DPD and approve the findings of the appraisal;
- (d) make recommendations to TDC and CBC in relation to the approval of the TCBGC DPD for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the 2004 Act, and consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
- (e) consideration of amendments or modifications of the joint TCBGC DPD recommended by the person carrying out the independent examination under section 20 of the 2004 Act;
- (f) recommend to CBC and TDC adoption of Joint Development Plan Documents in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012; and
- (g) the power of the TDC and CBC as local planning authority to determine planning applications by virtue of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

2. The functions delegated by TDC, CBC and ECC: -

- (a) To exercise TDC, CBC and ECC's local planning authorities' powers and duties in relation to development control including for the avoidance of doubt the power to approve authorise and direct the respective Local Planning Authorities to enter into agreements regulating the development or use of land pursuant to S106 of the Town and Country Planning Act 1990 and related powers within the Tendring Colchester Borders Garden Community area shown coloured purple on the plan contained at Appendix 2.

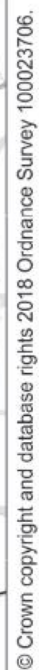
3. In exercising the functions contained in paragraph 2(a), the kind of matters that would fall to the Joint Committee to consider, in the determination of planning applications would include:

- Housing – all tenures (market, affordable, and specialist housing for elderly persons etc)
- New schools (primary, secondary, special education needs early years and post 16)
- Community centre, community hub and library
- leisure uses, sports provision, and allotments
- Country parks, recreation and public open space
- Any waste development proposals.
- Sustainable Urban Drainage
- Town/neighbourhood centre(s) and associated shops (all shapes and sizes)
- Public realm, footpaths and dedicated cycle routes/network
- All new roads and road crossing within the Garden Community
- Any segregated/dedicated bus routes
- Commercial and employment sites, including energy for waste proposals.
- Minerals planning applications.

4. In addition, the Joint Committee would also have a role in considering:

- The heads of terms for S106 obligations relating to the mitigation measures, necessary infrastructure and affordable housing required to deliver a policy compliant development.
- Development viability, where relevant, in relation to S106 obligations.
- Stewardship model aligned to the S106 and associated permissions.
- Ongoing monitoring of the compliance of development with agreed permissions, related obligations/conditions and its implementation to an agreed standard.

UNIVERSITY



**Standing Orders for Tendring Colchester Borders Garden Community
Joint Committee**
1. Appointment of Chair and Deputy Chair

- 1.1 The Committee shall, at its first meeting in each municipal year, and from time to time as it considers necessary, elect a Chair and Deputy Chair. The Chair and Deputy Chair shall rotate between the Council's.
- 1.2 In the absence from any meeting of the Chair and Deputy Chair, a Chair for that meeting shall be appointed by the meeting but shall relinquish the chair if the Chair or Deputy Chair subsequently arrives at the meeting.

2. Appointment of Spokespersons

- 2.1 Each of the Councils shall nominate one of the committee members which it appoints as its spokesperson.

3. Notice of and Summons to Meetings

- 3.1 The administration of the Committee shall be undertaken by Tendring District Council who will give notice to the public of the time and place of any meeting in accordance with the access to information rules applicable to local authorities. At least five clear days before a meeting, the Committee Service will send an agenda by post and/or electronically to every member of the Committee. The agenda will give the date, time and location of each meeting and specify the business to be transacted and will be accompanied by such details as are available.
- 3.2 The Committee Service will take reasonable steps to ensure that a copy of the agenda and accompanying papers are placed on deposit at the offices of each of the councils for public inspection at least five clear days before the meeting and are published on the Council's web sites. The Committee Service will ensure that arrangements are put in place for the inspection of background papers in accordance with section 100D, Local Government Act, 1972 and to ensure compliance with all other provisions of Part VA, of that Act.
- 3.3 Dates, times and venues for meetings shall be determined by the Committee. In the absence of agreement or in cases of urgency, meetings may be called by the Committee Service following consultation with the Chair and Deputy Chair.
- 3.4 If at any time Tendring District Council was unable to fulfil its role in providing the administration for the Committee, Colchester Borough Council or Essex County Council will perform the function.

4. Membership

- 4.1 Committee members shall be appointed by the Councils from time to time in accordance with the Committee's terms of reference. A Council may at any time replace one or more of its nominated members by notice given to the Committee Service.

5. Substitute Members

- 5.1 Each Council will appoint one substitute member. Each Council will notify the Committee Service of substitute members appointed.
- 5.2 Substitute members will have all the powers and duties of an ordinary member of the Committee. For the purposes of briefing meetings and circulation of papers, substitute members shall be treated in the same manner as ordinary members.
- 5.3 Substitute members may attend meetings in the capacity of an ordinary member of the Committee. The substitute member should withdraw from participation as a member of the Committee in the business at that meeting during any period at which the ordinary member is in attendance.

6. Quorum

- 6.1 The quorum of a meeting of the Committee shall be as follows: -

2 Members from Tendring District Council
2 Members from Colchester Borough Council
2 Members from Essex County Council

7. Public speaking rights

- 7.1 Members of the public have the public speaking rights set out in Annex A.
- 7.2 The Committee shall have the power to amend the public speaking rights.

8. Voting

- 8.1 All members of the Committee shall be entitled to vote upon any decision due to be made by the Committee.
- 8.2 Every question shall be decided by a show of hands, subject to Rule 8.3.
- 8.3 If any member demands a named vote and is supported by two other members, the question shall be determined by a named vote and the Committee Service shall record and enter in the minutes the names of each member present and whether they voted for or against or abstained.
- 8.4 Any member may, immediately after any vote is taken, require a record to be made in the minutes of whether they voted for or against or abstained.
- 8.5 If there are equal numbers of votes for and against, the Chair will have a second and casting vote.

9.0 Tenure of office

- 9.1 A member shall cease to be a member of the Committee if the person—
 - (a) resigns in accordance with paragraph 9.3;
 - (b) is removed or replaced by the Council which made the appointment; or

(c) ceases to be a member of a constituent Council (and does not on the same day again become a member of that or any other Council).

- 9.2 A person who ceases to be a member of the Committee shall be eligible for reappointment.
- 9.3 A member may resign from the Committee by sending written notice delivered to the proper officer of the Council which appointed the member;
- 9.4 Any casual vacancy shall be filled as soon as practicable by the body which appointed the member of the Committee whose membership has ceased.

10. Minutes

- 10.1 The Chair will sign the minutes of the Committee at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record.

11. Exclusion of Public

- 11.1 Members of the public and press may only be excluded either in accordance with the Access to Information provisions of the Local Government Act 1972 (consideration of 'exempt information') or Rule 13 (Disturbance by Public).

12. Disorderly Conduct: Misconduct of a Member

- 12.1 If at any meeting of the Committee any member, in the opinion of the Chair, misconducts themselves by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Committee, the Chair or any other member may move "That the member named be not further heard", and the motion if seconded shall be put and determined without discussion.
- 12.2 If the member named continues their misconduct after a motion under the foregoing Rule has been carried, the Chair shall either move "that the member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or adjourn the meeting of the Committee for such period as in their discretion shall consider expedient.
- 12.3 In the event of a general disturbance which in the opinion of the Chair renders the due and orderly despatch of business impossible, the Chair, in addition to any other power vested in him/her, may adjourn the meeting of the Committee for such period as in their discretion shall consider expedient.

13. Disorderly Conduct: Disturbance by members of the public

- 13.1 If a member of the public interrupts the proceedings at any meeting the Chair shall warn them. If a member of the public continues the interruption the Chair shall order their removal from the meeting.
- 13.2 In case of a general disturbance in any part of the room open to the public the Chair shall order that part to be cleared.

14. Suspension of Standing Orders

- 14.1 Any of these Standing Orders may, so far as is lawful, be suspended by motion passed unanimously by those entitled to vote on the application in question. Any motion to suspend any part of these rules shall specify the purpose of their suspension. Any suspension shall only be to the extent and for the length of time necessary to achieve the stated purpose.

15. Attendance at the Committee by other members of the Councils

- 15.1 A member of any of the Councils who is not a member of the Committee may speak at a meeting of the Committee at the request or with the permission of the Committee or of its Chair made or obtained before the meeting. Such request or permission shall specify the matters in respect of which the member shall be permitted to speak.

16. Attendance at the committee by Council Officers

- 16.1 The relevant officers from the Councils will attend the Committee meetings to present the reports and advise the Committee in relation its decision making.

17. Statements of Community Involvement

- 17.1 Public consultation in relation to pre application matters shall be dealt with in accordance with the Statement of Community Involvement or other appropriate procedures of the Council responsible for issuing the consent.

<p style="text-align: center;">Tendring Colchester Borders Garden Community Joint Committee</p>
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PART A

Public Speaking Arrangements- General

1. Members of the public, who want to speak about an item which is to be considered at a meeting of the Committee can do so if they have notified the Committee Service by 12.00 noon on the day before the meeting.

At the Committee Meeting

2. Agenda items for which there are public speakers are taken first, normally in the order of the agenda.
3. Each speaker will be allowed three minutes in which to make their representation. The Chair will tell the speaker when the three minutes has elapsed and the speaker must stop when requested by the Chair. The Chair has discretion to extend this time limit.
4. The Chair will ask the speaker to come to the table at the beginning of the discussion of the report of the relevant item. The Chair will then invite them to speak following the Officer's introduction to the report on the item.
5. The speaker should address the Chair of the Committee, which is the normal convention for Committees.
6. Speakers should remember to:
 - Keep to 3 minutes or whatever other period has been agreed.
 - Highlight the main points they wish to raise and be as brief and concise as possible.
 - Be courteous.

At the conclusion of the public speaking, the Committee will discuss and determine the item.

PART B

Public Speaking Arrangements- Planning Applications

1. Members of the public, or applicants or their agents, who want to speak about an application which is to be considered at a meeting of the Committee can do so if they have:
 - (a) in the case of members of the public, already submitted a written representation on an application; and
 - (b) notified the Committee Service by 12.00 noon on the day before the meeting.
2. A member of the public who has made a written representation on a planning application which is to be determined by the Committee, will be notified in writing about the committee date and their public speaking rights in the week before the Committee meeting.

At the Committee Meeting

3. A list of public speakers is available at the meeting. Agenda items for which there are public speakers are taken first, normally in the order of the agenda.
4. Each speaker will be allowed three minutes in which to make their representation. The Chair will tell the speaker when the three minutes has elapsed and the speaker must stop when requested by the Chair. The Chair has discretion to extend this time limit.
5. If more than one person wants to make a representation about the same application, then they should choose someone to act as a spokesperson. When several people wish to speak on the same application but wish to raise different issues, the Chair may agree to those speakers making representations. In these circumstances, less time may need to be given to each speaker.
6. The Chair will ask the speaker to come to the table at the beginning of the discussion of the report on the relevant application. The Chair will then invite them to speak following the Officer's introduction to the report on the application.
7. The speaker should address the Chair of the Committee, which is the normal convention for Committees.
8. Speakers should remember to:
 - Keep to 3 minutes or whatever other period has been agreed.
 - Keep to the planning issues raised by the application.
 - Highlight the main points they wish to raise and be as brief and concise as possible.
 - Be courteous.

At the conclusion of the public speaking, the Committee will discuss and determine the planning application.

Proposed changes to the Terms of Reference of the Local Plan Committee

1. Authority to determine on behalf of the Council:
 - (a) preparation of or a revision of a Local Plan
 - (b) preparation of or a revision of a local development document
 - (c) submission of a Local Plan or local development document
 - (d) decision on whether to do a joint Local Plan or Supplementary Planning document and the creation of a joint committee with another authority **(with the exception of those decisions delegated by Council to the Tendring Colchester Borders Joint Committee)**
 - (e) preparation and adoption of Supplementary Planning Documents
 - (f) bring Local Development Scheme into effect
 - (g) preparation of monitoring report
 - (h) approval of Neighbourhood Area
 - (i) approval of Neighbourhood Forum
 - (j) withdraw Neighbourhood Forum status
 - (k) approval of Community Right to Build organisation
 - (l) making of Neighbourhood Plans
 - (m) making of Neighbourhood Development Orders
 - (n) revocation or modification of Neighbourhood Development Orders and Neighbourhood Plans
 - (o) adoption of other non statutory planning documents including the Local List.
2. To make recommendations to the Council on:
 - (a) the adoption of the Local Plan
 - (b) the withdrawal/revocation of the Local Plan
 - (c) the adoption of other local development documents

Cabinet

17 November 2021

Item

Report of	Assistant Director - Customer	Author	Jason Granger ☎ 07889445614
Title	Local Council Tax Support Scheme 2022 - 2023		
Wards affected	All Wards		

1. Executive Summary

- 1.1 Colchester Borough Council's Local Council Tax Support scheme provides a reduction in Council Tax liability for eligible residents.
- 1.2 Each year the scheme is reviewed, and proposals are formulated to potentially update the scheme or to maintain the scheme in its existing form.
- 1.3 This report provides details of the proposal for the scheme effective from 1 April 2022.

2. Recommended Decision

- 2.1 It is recommended that current working age entitlement is maintained for the fiscal year effective from 1 April 2022. The only amendments from the current scheme being the prescribed regulations and mandated national legislative amendments.
- 2.2 Cabinet refers the Local Council Tax Support Scheme, as described in 2.1, onto full Council for approval and adoption.

3. Reason for Recommended Decision

- 3.1 Legislation requires that the scheme, effective from 1 April 2022, is agreed by March 2022.

4. Alternative Options

- 4.1 Changes could be made to the scheme. However, stability to the scheme is being recommended as this will provide residents with support and consistency within the context of the Covid-19 pandemic and the resultant financial instability.

5. Background Information

- 5.1 Local Council Tax Support currently helps 9,500 residents reduce their Council Tax bill – 3,400 of state pension age and 6,100 working age residents. The value of Local Council Tax Support being granted in 2021/2022 is currently £8.9 million. National regulations still require local schemes to ‘protect’ those residents of state pension credit age from any reduction to their level of support as a result of the localisation of the scheme.
- 5.2 Local Council Tax Support entitlement in Essex, for those of working age, still overwhelmingly follows means-tested principles, based broadly on Housing Benefit legislation, minimum levels of contribution vary between authorities. Officers regularly liaise with colleagues throughout Essex for their views on scheme changes, benchmarking and to share best practice. Currently there appears to be limited change to scheme design planned for 2022/23 within districts in Essex.

6. Equality, Diversity and Human Rights implications

- 6.1 No changes are being proposed to the current scheme other than prescribed and mandated national legislative amendments. Therefore, the Equality Impact Assessment has not been revised.

7. Strategic Plan References

- 7.1 The Council’s Strategic Plan sets out 15 priorities, one of which being:

‘Tackle the causes of inequality and support our most vulnerable people’
- 7.2 Precepting authorities contributed additional funding to assist with the collection of Council Tax, recognising the additional number of residents we had to collect from and the potential difficulties we would experience collecting from residents who have either not previously paid Council Tax or who are paying an increased amount. This additional money has helped fund a proactive intervention programme which provides a range of services including flexible payment plans, debt and back to work advice as well as administration of an Exceptional Hardship fund.

8. Consultation

- 8.1 It is recommended that the current scheme is maintained therefore a consultation is not required.

9. Publicity Considerations

- 9.1 Local Council Tax Support is publicised via our website and we continue to provide information within our annual Council Tax bills and other mailings.

10. Financial implications

- 10.1 The medium-term financial forecast assumes a £5 increase in the district Council Tax in 2022/2023. It is currently assumed there is a 12.5% increase in Local Council Tax Support take-up compared to pre-Covid levels. The 12.5% increase versus pre-Covid levels was already assumed in 2021/22 budget setting. The position will be reviewed in the Budget Report to 26 January 2022 Cabinet. Any decrease in support may impact on collection of the discounted liability. An increase in discount would have a significant impact on County Council resources.

Scheme Cost

	Total Local Council Tax Support costs (£'000)	Colchester Borough Council share (£'000)
Current Medium Term Financial Forecast Assumption	8,940	964

11. Health, Wellbeing and Community Safety Implications

- 11.1 The proposals contain provision for dealing with welfare concerns of residents, particularly vulnerable people and the support is intended to limit hardship.

12. Health and Safety Implications

- 12.1 There are no health and safety implications.

13. Risk Management Implications

- 13.1 Fundamental changes to the current criteria could potentially affect the collection fund position, especially in consideration of the current Covid-19 pandemic.
- 13.2 The absence of an adopted Local Council Tax Support Scheme for 2022/2023 could lead to introduction of a prescribed default scheme which broadly represents the former Council Tax Benefit scheme with an additional funding requirement.

14. Environmental and Sustainability Implications

- 14.1 There are no environmental and sustainability implications.

Background Papers

- [Draft Local Council Tax Support policy document 2022 – 2023.](#)

Cabinet

Item

17 November 2021

Report of	Assistant Director – Corporate and Improvement	Author	Jessica Douglas / Chris Reed ☎ 282240
Title	Officer Pay Policy Statement for 2022/23		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 Local authorities must publish an officer pay policy statement each year. The statement must be approved by Full Council.
- 1.2 The statement covers all pay and benefits for all Colchester Borough Council employees.
- 1.3 The draft statement for 2022/23 is attached, with the detailed rates in the appendix.

2. Recommended Decision

- 2.1 To recommend the approval and adoption of the 2022/23 Statement by Full Council.

3. Reason for Recommended Decision

- 3.1 The Localism Act requires “authorities to prepare, approve and publish pay policy statements articulating their policies towards a range of issues relating to the pay of its workforce, which must be approved by full Council annually. An authority’s pay policy statement must be approved by a resolution of that authority before it comes into force”.

4. Alternative Options

- 4.1 The only alternative would be to not recommend the approval of the Pay Policy Statement, but that would be contrary to the requirements of the Localism Act.

5. Background Information

- 5.1 Local authorities must publish a pay policy statement for the financial year. The Officer Pay Policy for 2021/22 was approved by [Full Council on 3 December 2020](#).

The Localism Act specifies items that must be covered by the statement including the level and elements of remuneration for each chief officer, remuneration of chief officers on recruitment, increases and additions to remuneration for each chief officer, the use of performance-related pay and bonuses for chief officers, the approach to the payment of chief officers on their ceasing to hold office under or to be employed by the authority, and the publication of and access to information relating to remuneration of chief officers.

- 5.2 The Council's pay policy statement extends beyond the statutory requirements relating to chief officers as shown in 5.1 above to include all officers employed by the Council, in the interests of openness and transparency.
- 5.3 Please see the attached Officer Pay Policy. Appendix 1 of the policy contains the mostly numerical data which sits behind it, and the definitions of terms such as 'chief officer'. These two documents form the Council's officer pay policy statement.
- 5.4 The statement covers all pay and benefits for every employee of Colchester Borough Council. There are no financial allowances or bonuses other than those mentioned.
- 5.5 The Colchester Commercial (Holdings) Ltd holding company (CCH) and Amphora trading companies set up in January 2018 are not covered by this statement.
- 5.6 Mandatory requirements for data publication under the [Local government transparency code 2015](#), and for the Council's [Statement of Accounts](#) under the [Accounts and Audit Regulations 2015](#) have also been taken into account when preparing this year's update of the pay policy to ensure that the published data is complete and consistent.

6. Living Wage

- 6.1 The Council has chosen to pay the [Living Wage](#), set by the Living Wage Foundation, since 2013 as part of its commitment to being a good employer, and its approach to [Social Value](#). The Council will continue to pay the Living Wage as a minimum standard for all its employees. Around 300 permanent/casual Council staff and 50 third-party contracted employees receive the Living Wage.
- 6.2 The Living Wage is set independently and calculated according to the basic cost of living in the UK. The new Living Wage rate will be announced on 15 November – two weeks later than usual - and will be reported verbally at this Cabinet meeting. The pay scales (see Appendix 1) will then be updated from the current £9.50 in line with the new rate.
- 6.3 This Living Wage hourly rate, paid by the Council and set by the Living Wage Foundation, is higher than the statutory [National Living Wage](#) set by central government for workers who are 23 years or over (currently £8.91) or the [National Minimum Wage](#) (£8.36 if 21-22, £6.56 if 18-20, £4.62 if under 18).
- 6.4 The Council signed a 'Living Wage Employer' licence with the Living Wage Foundation in February 2016. This means that as well as paying the Living Wage Foundation's recommended hourly rate to staff, this requirement has been included in new third-party contracts from that date for contracted staff and suppliers working on Council business.

7. Changes last year and looking ahead to 2022/23

7.1 Last year:

- There were two changes to pay – the £9.50 Living Wage rate was implemented where applicable (up from £9.30 in November 2020), and the [2021/22 pay award](#) which was a one-off, unconsolidated payment of £140 (pro rata if part-time) for all staff.
- The £95,000 cap on public sector exit payments came into force on 4 November 2020, but those exit cap regulations were [formally revoked](#) on 19 March 2021. HM Treasury issued guidance on the [use of special severance payments](#) in May 2021.

7.2 Looking ahead:

- The Council will be recruiting a new Chief Executive, following the announcement of Adrian Pritchard's retirement. Section 8 of the Officer Pay Policy covers recruitment, and the role of full Council in this case. The [Constitution](#) provides that it is a member appointment, ratified by Full Council, to this senior post and also to the Head of Paid Service, Registration Officer and Returning Officer responsibilities.
- The delegated authorisation levels for recruitment and retention will now be to the Chief Operating Officer, rather than to the Chief Executive, to reflect the Medium Term Financial Forecast (MTFF) responsibilities.
- Consideration of impacts which result from any future changes to regulations or legislation will take place if or when necessary.

8. Equality, Diversity and Human Rights implications

- 8.1 The Equality Impact Assessment is on the Council's website [here](#) or by following the path: www.colchester.gov.uk > Equality and Diversity > Equality Impact Assessments

9. Strategic Plan References

- 9.1 The performance, remuneration and motivation of employees are key to delivering effective, efficient public services and the Strategic Plan's aspirations and priorities.

10. Publicity Considerations

- 10.1 The statistical data within the Officer Pay Policy is publicly available on the Council's [Council Data](#) web resource so that it is all in one place, helping to improve openness and transparency. Employee benefits including pay scales are also published on the website [here](#). Gender pay gap information is published [here](#), including our supporting narrative and a link to the Government's [gender pay gap portal](#) where the results can be compared with those of other organisations.

11. Financial implications

- 11.1 The pay policy statement provides transparency about the Council's pay and benefits.

12. Other Implications

- 12.1 There are no particular consultation; health, wellbeing and community safety; health and safety; risk management or environmental and sustainability implications.

Officer Pay Policy



Customer Business Culture

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Introduction

The purpose of this policy is to provide an open and transparent framework that ensures clarity, fairness and consistency in the remuneration of officers.

The Council will comply with this policy which covers all officers. It ensures that employees are paid on a fair and equitable basis in accordance with equality legislation.

Colchester Borough Council recognises the importance of administering pay in a way that:

- attracts, motivates and retains appropriately talented people needed to maintain and improve the Council's performance and meet future challenges
- reflects the market for comparable jobs, with skills and competencies required to meet agreed delivery and performance outcomes
- allows for a proportion of remuneration to be at risk, depending upon the delivery of agreed outcomes and results
- delivers the required levels of competence within an overall workforce strategy within approved budget parameters
- is affordable and transparent.

1. Pay strategy and framework

- 1.1 The Council determines the level of annual salary for employees, including chief officers, using an established job evaluation scheme. Jobs are independently evaluated, using this scheme, by experienced Human Resources staff and all employees have the right of appeal against their pay grade.
- 1.2 The pay grades and salary spinal points are shown on the Council's website [here](#), and in Appendix 1 along with other definitions such 'chief officer'. Each pay grade has a number of incremental points and employees normally progress up their pay grade by one increment on an annual basis, subject to satisfactory levels of performance (see also section 5 - rewarding performance).
- 1.3 The exception to this principle is where employees have transferred their employment to the Council and salary protection exists under the Transfer of Undertakings (Protection of Employment) legislation commonly known as TUPE.
- 1.4 The pay policy incorporates the Council's Equality and Diversity policy (website link [Equality and Diversity in employment - Colchester Borough Council](#)), and periodic equal pay audits will be conducted.
- 1.5 From April 2017, [Equality Act regulations](#) require public organisations with more than 250 employees to publish a range of gender pay gap figures to show whether there are any differences in pay between male and female employees. The annual gender pay 'snapshot' is published on the Council's website [here](#), with a link to the Government's website where figures from other public and private organisations can also be seen/searched to help with openness and transparency.
- 1.6 The Council implemented the '[Living Wage](#)', which is independently calculated by the [Living Wage Foundation](#), from April 2013 and became an accredited Living Wage Employer in February 2016.

2. Pay review and annual increases

- 2.1 The Council supports the principle of collective bargaining and has a recognition agreement with the trade union 'Unison'. Negotiation and consultation are conducted at a local level in relation to levels of pay and benefits for all employees including Chief / Senior Officers (see definitions in Appendix 1) using 'Colchester Managed Grades' (CMG) pay grades. The Council is therefore not part of any national terms and conditions for local government employees.
- 2.2 Local negotiations around a pay review are conducted on an annual basis, and any increase is agreed taking into account inflationary factors, local salary levels and affordability. Any decision to increase salary levels for all employees has to be approved by the Portfolio Holder under delegated powers set in the Council's [Constitution](#).
- 2.3 The Council publishes its pay multiple (the ratio between the highest and lowest paid employees) and does not currently set a target for this.

3. Remuneration of Chief Officers

- 3.1 The remuneration of all officers is determined using the Council's job evaluation and performance management schemes.
- 3.2 The median average value of Chief Officers' pay is shown in Appendix 1 together with the relationship to the lowest paid staff and other staff (referred to in the legislation as "the pay multiple").
- 3.3 The remuneration of all Chief Officers and Senior Officers is published in the Council's [Annual Statement of Accounts](#), which also includes a wide range of financial information.

4. Other items in addition to salary

The Council pays the following additions to annual salary:

- 4.1 [Overtime:](#)
This is paid to employees who are required to work in excess of their contracted weekly hours. All overtime is paid at plain-time rate derived from annual salary, and enhancements are not normally paid for working at weekends or public holidays. Employees on pay grade CMG5 or above do not receive overtime pay.
- 4.2 [Unsocial hours working:](#)
The Council pays an allowance to employees who work unsocial hours which cover 24-hour shift working. Allowances are also paid to employees who undertake standby and call out duties. A small payment can also be made to 'front-line' employees who are required to work over the Christmas and New Year period.
- 4.3 [Maternity, paternity and shared parental arrangements:](#)
The Council has a policy that supports parents and provides some enhancement to the statutory maternity, paternity and shared parental provisions. These enhancements are shown in Appendix 1.

OFFICER PAY POLICY

4.4 Recruitment and retention payments:

Where the Council is faced with difficulties in recruitment to and retention of specific jobs, as a result of market pressures and skills shortages, the Chief Operating Officer is able to sanction the use of a temporary recruitment/retention supplement, reviewed on a regular basis. This may include a non-consolidated payment on appointment and/or a retention payment to reflect the employment market and the needs of the business. Any such payment is to be authorised by the Chief Operating Officer. If the employee leaves the Council voluntarily within a year, they will be required to pay back this non-consolidated payment.

Where an individual is being recruited and has significant experience or skills in the role for which they are being employed, Assistant Directors and above have discretion to appoint at any scale point (within the grade) above the lowest level.

Where an employee is upgraded using the Council's job evaluation scheme, the employee will move to the lowest point of the new pay grade such that they receive at least one increment. Any proposal to move the employee to a higher point on the pay grade has to be authorised by Assistant Directors and above.

4.5 Increases in responsibility:

Temporary or permanent payments can be paid at the discretion of the Assistant Director and above to reflect operational needs, the level of additional responsibility and the Council's increment/acting-up policies.

4.6 Other items:

The Council only reimburses reasonable business expenses actually incurred and in line with the Council's travel and subsistence policy.

Professional membership fees are reimbursed to employees at the rate of 50% of fees incurred and only one membership per employee is reimbursed.

External training costs are paid where they form part of agreed learning and development, and in line with the post-entry training policy.

There are no expense allowances or bonuses other than those mentioned within this pay policy.

5. Rewarding performance

- 5.1 The Council uses a performance management scheme to appraise the performance of all employees, including Chief / Senior Officers. Issues of poor performance can result in any annual increment being withheld.
- 5.3 The Council also recognises the need to incentivise specific jobs whose role involves a proportion of sales or income generation. In such cases a reward package will be developed, which needs approval by Senior Management Team. The annual salary and incentive payment will be determined outside of the job evaluation scheme and will be risk-assured in relation to equal pay.
- 5.4 The Council incentivises and recognises employees for their individual contribution towards the three organisational goals of 'Customer, Business and Culture' through a non-salary rewards scheme. Where an employee's contribution is deemed to be excellent, they can be nominated for a non-consolidated payment up to the maximum value if authorised by an Executive Director. See Appendix 1 for the value of these incentives.

6. Pension

- 6.1 In accordance with statutory provisions, employees are offered membership of the Local Government Pension Scheme. The Council has a published pension policy and this policy applies to all employees including Chief / Senior Officers. It sets out the Council's decisions relating to discretionary powers allowed within the scheme. The pension contribution rates are shown in Appendix 1.
- 6.2 The Council also supports the principle of flexible retirement whereby employees are able to gain access to their pension whilst continuing in employment, subject to the restrictions laid down within the scheme and in the Council's Pension policy. This approach allows the Council to retain skilled employees and to assist individuals in managing the transition to retirement.

7. Other financial benefits

The Council currently offers the following financial benefits to employees, with the value of these charges and benefits shown in Appendix 1:

7.1 [Travel Plan incentives/charges:](#)

In order to encourage employees to use 'greener' travel modes, which also help to reduce town centre congestion, the Council has developed a package of travel plan measures. These measures include a charge for car parking for employees based in the town centre, and discounts for 'home to work' use of bus and rail travel.

7.2 [Salary sacrifice schemes:](#)

The Council has adopted approved government salary sacrifice schemes which enable employees to have deductions from pay to purchase childcare vouchers (closed to new applicants in October 2018) or cycles for travel to work. These schemes are tax efficient for the employee and are cost-neutral to the Council.

7.3 [Long Service Awards:](#)

The Council recognises the commitment of employees to public service and provides a gift to employees for 25 years' service with the Council.

7.4 [Other allowances:](#)

An allowance is paid for employees who volunteer to be designated First Aiders in the workplace.

8. Recruitment

8.1 In accordance with the Council's [Constitution](#), appointments to Head of Paid Service (Chief Executive), Executive Directors, Assistant Directors, Chief Finance Officer and Monitoring Officer, have to be approved by the Full Council.

8.2 All appointments are made in line with this pay policy.

8.3 The appointment of other Chief Officers and starting salaries within the grade must be approved by the Chief Executive.

8.4 The appointment of employees other than Chief Officers is delegated to the appropriate management level, relevant to the vacant job. The starting salary within the pay grade range is determined taking into account the skills and experience of the applicant and market pressures.

8.5 The Council does not restrict the re-employment of employees previously made redundant by either the Council or other Local Government. All applicants for vacancies are considered equally, based on their knowledge, skills and experience.

8.6 Full Council will be offered the opportunity to vote before large salary packages are offered in respect of new appointments. This level is set out in statutory guidance, and the current level is shown at Appendix 1 along with definitions of roles/posts.

9. Sick Pay

The Council applies the following sick pay scheme for all employees.

Service (years)	Full Pay (months)	Half Pay (months)
During first year	1	*2
During second year	2	2
During third year	4	4
During fourth/fifth years	5	5
After five years	6	6

* After completing 4 months' service

10. Payments when employment status changes

10.1 Redundancy:

The Council operates a redundancy payment scheme which applies to all employees including Chief / Senior Officers. The scheme is based on the employee's rate of pay and on the number of weeks paid under the statutory scheme, with an enhancement of 50% subject to a maximum of 45 weeks' pay.

10.2 Pay Protection:

The Council operates pay protection for a limited time period, within the terms of its change management and redundancy policy. This applies when staff have their pay reduced as part of a process of re-deployment or job evaluation.

10.3 Agreements:

Where the Council is in dispute with an employee, the Council will make use of legally binding agreements to settle disputes in appropriate circumstances. The use of these agreements and the value of any settlement will be determined by a consideration of factors such as the potential costs of litigation, the degree of risk at employment tribunal adjudications and any reputational impact. The decision to agree a legally binding agreement will rest with the Chief Executive or, in the case of the Chief Executive, will rest with the Cabinet.

11. Election duties

11.1 The Council has determined that the Returning Officer is the Chief Executive, and the remuneration is separate from the Chief Executive's salary. Remuneration levels for employees who assist with election duties on a secondary employment basis are set by Essex County Council for local elections, and by central government for national and European elections.

11.2 The amount paid for election duties will vary depending on the number and type of elections which take place. The amount paid to the Returning Officer in the previous year is shown in Appendix 1.

12. Temporary staff and interim arrangements

12.1 The Council occasionally uses temporary agency or interim staff where it meets specific business needs and delivers best value. Levels of reward are determined by market rates. However, the Council will not use payment arrangements that could be perceived to be designed to deliberately avoid personal taxation.

13. Supporting Information

The following references have been used in producing this Pay Policy, along with the Council's existing Human Resource policies:

Legislation and best practice guidelines

- The Localism Act 2011 - [chapter 8 - pay accountability](#).
- The Equality Act 2010
- Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006
- Local Government Pension Scheme Regulations 2008
- [Accounts and Audit Regulations 2015](#).

Home Office and the Ministry of Housing, Communities and Local Government:

- [Openness and accountability in local pay: Guidance under section 40 of the Localism Act](#) and [Local government transparency code](#)

The Chartered Institute of Public Finance and Accountancy:

- [Code of Practice in Local Authority Accounting](#)

Local Government Association

- [Pay Policy Statements - guidance](#).

Our website

The Council's website www.colchester.gov.uk has a [section with more information about employment](#) and [gender pay gap statistics](#) for Colchester Borough Council.

The following policies and forms should be taken into account alongside this document:

Policies	
Equality and Diversity policy	Increment policy
Maternity and Paternity policies	Acting up policy
Pensions policy	Overtime policy/Standby and Call-out Policy
Local Government Pension Scheme (Administration) Regulations 2013 Discretionary Decisions by Colchester Borough Council	Performance management scheme
Post-entry training policy	Change Management and Redundancy policy
Travel and subsistence policy	Travel Plan

The policies are on the Intranet in the HR section: [A to Z of HR Policies and Procedures](#)

Document Information

Title :	Officer Pay Policy
Status :	Annual update of existing policy
Version :	Draft for Cabinet/Council approval
Consultation :	Cabinet 17 November 2021
Approved By :	Full Council
Approval Date :	2 December 2021
EQIA :	click here
Review Frequency :	Annual
Next Review :	November / December 2022

This policy applies to you if you are working under the Terms and Conditions of Colchester Borough Council.

Pay Data – Appendix 1

1. **Annual Salary scales.** The last pay award increase was in April 2021 – one-off, unconsolidated payment of £140 (pro rata if part-time).

Salary spine

point	Annual salary (£.p)	point	Annual salary (£.p)
4*	18,328.26	32	37,068.75
5*	18,328.26	33	38,496.61
6*	18,328.26	34	39,821.87
7*	18,328.26	35	41,147.14
8*	18,328.26	36	42,472.40
9*	18,328.26	37	43,850.38
10*	18,328.26	38	45,228.38
11*	18,328.26	39	46,606.33
12	18,439.62	40	50,032.04
13	18,842.89	41	53,457.76
14	19,249.02	42	56,883.47
15	19,649.45	43	61,447.80
16	20,052.73	44	66,012.09
17	20,455.99	45	70,576.42
18	20,853.60	46	75,140.69
19	21,457.78	47	79,705.00
20	22,062.01	48	84,081.20
21	22,666.18	49	88,457.42
22	23,270.38	50	92,833.59
23	23,874.58	51	97,209.81
24	24,527.24	52	101,585.99
25	26,472.38	53	105,962.22
26	28,465.96	54	110,879.94
27	30,459.55	55	115,797.63
28	31,710.73	56	120,715.34
29	32,961.89	57	125,633.02
30	34,213.04	58	130,550.74
31	35,640.89	59	133,189.84

* these salary points are 'Living Wage'.

The Living Wage rate, as set annually by the Living Wage Foundation, was uplifted to £9.50 an hour/£18,328.26 a year on 9 November 2020. The new rate will be announced by the Living Wage Foundation on 15 November 2021; it will be used to update the relevant salary points and pay scales.

Pay Grade range – Colchester Managed Grades (CMG)

Pay Grade (CMG)	Salary spinal column point (SCP) range	Pay Grade (CMG)	Salary spinal column point (SCP) range
14	4 to 7	6	35 to 39
13	7 to 12	5	38 to 42
12	11 to 18	5 GMT	38 to 45
11	18 to 24	4 AD	42 to 49
10	23 to 27	4	42 to 47
9	26 to 30	2-3	46 to 55
8	29 to 33	1	54 to 59
7	32 to 36		

OFFICER PAY POLICY

Apprentices

The national Apprenticeship Levy was introduced from April 2017. Employers operating in the UK with a pay bill over £3 million each year are required to invest in apprenticeships via an apprenticeship levy charged at a rate of 0.5% of the annual pay bill.

The Council's first intake of apprentices joined in September 2017. The Council agreed that its apprenticeship pay rate would be the [National Minimum Wage \(NMW\) by age](#) - this is more than the NMW rate for apprentices which is £4.30 an hour, and Council apprentices get the [NMW for their age](#) straight away without having to complete the first year of an apprenticeship or be 19.

2. Pay relationship for Chief Officers

	2020/21
Median average pay for Chief Officers	£88,457.42
Median average pay for staff other than Chief Officers	£24,527.24
Median average pay for lowest paid staff	£17,942.30
Pay multiple of Chief Officer (Chief Executive) pay to staff other than this Chief Officer	5.43
Pay multiple of Chief Officers' pay to staff other than Chief Officers	3.61
Pay multiple of Chief Officers' pay to lowest paid staff	4.93 ¹

Notes – please also see definitions of officers at section 8 below:

- Median average pay is based on full-time equivalent annual salary plus additional payments for Chief Officers. It excludes election fees.
- 'Lowest paid staff' is defined as those paid the 'Living Wage' - see chart of 'Colchester Managed Grades (CMG) pay grades on page 8.
- ¹The ratio would be 7.11 if the definition included apprentices.
- Pay multiple - the ratio between the highest and lowest paid staff.

3. Additional payments for Chief Officers

Returning Officer election fees paid to the Chief Executive

Elections held	Amount paid	Year
Borough and Parish elections	£0.00	2020/21

4. Other pay additions and allowances – see pages 2 and 4 for eligibility

Unsocial hours working:

Where an employee is required to be on call "out of hours" as part of their duties:

Standby allowance from 1 April 2021:

- higher rate – immediate response must be made – day rate £17.64
- standard rate - non-immediate response – day rate £8.82

Call-out from 1 April 2021: £44.00.

Maternity, Paternity and Shared Parental pay:

In addition to the statutory provisions, the Council pays 20 weeks at half-pay for mothers who go on maternity leave and subsequently return to work. Up to two weeks' paid paternity leave is granted to eligible employees.

OFFICER PAY POLICY

Non-salary rewards scheme:

Quarterly – 1,500 loyalty points (£15 in value) can be redeemed on activities or products within Colchester Leisure World. Maximum of 42 staff across all services each quarter.
Annually – incentive is sourced via reciprocal marketing and voucher schemes.

Exceptional performance:

Non-consolidated payment/honorarium to a maximum of £1,000 if authorised by an Executive Director.

6. Pension contribution rate

Employer rate is 19.0% for 2021/22 (was 15.1% 2020/21). Employee rates are:

LGPS Contribution Bands April 2020		
Actual Pay (includes overtime, additional hours and so on)	Main section rate	50/50 section rate
Up to £14,600	5.5%	2.75%
£14,601 - £22,800	5.8%	2.90%
£22,801 - £37,100	6.5%	3.25%
£37,101 - £46,900	6.8%	3.40%
£46,901 - £65,600	8.5%	4.25%
£65,601 - £93,000	9.9%	4.95%
£93,001 - £109,500	10.5%	5.25%
£109,501 - £164,200	11.4%	5.70%
More than £164,201	12.5%	6.25%

7. Other financial benefits – see page 5 for eligibility

Travel Plan benefits and charges:

Car parking charge – for employees using designated Council car parks whilst at work:

- £2.50 per day.

Home to work travel, in line with Travel Plan policy:

- Bus season ticket discount 50% / train season ticket or 'bulk buy' discount 35%.

Long Service award:

- Maximum value of £250 for 25 years' service with the Council.

First Aid allowance - for employees designated as First Aiders in the workplace:

- £162.12 a year (pro rata for part-time staff).

8. Definition of terms used in the Officer Pay Policy and Pay Data documents

- Chief Officers – posts requiring appointment by elected councillors - designated as Chief Executive, Strategic Directors, Chief Operating Officer and Assistant Directors within the Council's constitutional arrangements for appointment. It also includes the Section 151 and the Monitoring Officer where those roles are not performed by an Assistant Director. These posts meet the Chief Officer definition in [paragraph 43 Localism Act](#).
- Chief Officer – this is the Chief Executive.
- Senior Officers – any post with a salary of £50,000 and above ([Accounts and Audit Regulations 2015](#))
- Senior Management Team – Chief Executive and Executive Directors and Assistant Directors. Executive Management Team - Chief Executive and Executive Directors.
- Large salary package – this is defined in statutory guidance and the current threshold is £100,000 ([paragraph 14 Localism Act guidance](#)).

10 November 2021

Report of	Assistant Director Communities	Author	Jon Ruder
Title	Gambling Policy // Results of Consultation		☎ 282840
Wards affected	All		

This report details the outcome of the consultation exercise undertaken in relation to the review of the Gambling Policy and recommends that the Policy be referred to Council for adoption

1. Executive Summary

- 1.1 This report details the outcome of the consultation exercise undertaken in relation to the review of the Gambling Policy and recommends that the Policy be referred to Council for adoption

2. Recommended Decision

- 2.1 The Committee is asked to -

- (i) Consider the responses and proposed amendments.
- (ii) Agree the Policy and propose its adoption to full Council.

3. Reasons for Decisions

- 3.1 The Council has consulted on the draft Policy with the intention of implementing the new Policy with effect from January 2021. The comments on the Policy are presented to the Committee for consideration.

4. Alternative Options

- 3.1 The Council has a statutory obligation to review the Policy every three years and there is no alternative option.

4. Detailed Considerations

- 4.1 The consultation process ran throughout October and was carried out in accordance with the requirements of the Act. The responses received are shown at Appendix 1. The suggested changes have been marked in bold and red on the Policy attached at Appendix 2. No significant changes have been identified and it is recommended that the matter be referred to full Council for approval.

5. Equality, Diversity and Human Rights Implications

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

6. Strategic Plan References

- 6.1 This Policy aims to contribute to the Council's strategic plan through the efficient and effective regulation of gambling premises thereby ensuring that the local risks identified.

7. Publicity Considerations

- 7.1 A copy of the draft Policy will be placed on the Council's website and will therefore also be available for public scrutiny, although it will not be open to any further public comment or consultation.

8. Financial Implications

- 8.1 There may be costs incurred in defending any action brought against the Council which seeks to judicially review the Policy. However, having consulted extensively it is thought such a challenge is unlikely.

9. Community Safety and Public Health Implications

- 9.1 The Policy, through the creation of the Local Area Profile, identifies local risks including community safety and public health implications.

10. Health and Safety Implications

- 10.1 There is no known direct public health and safety issues which might arise from the adoption of the revised Policy.

11. Risk Management Implications

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

12. Environmental and Sustainability Implications

- 12.1 There are no known environmental and sustainability implications.

Essex County Council – Children and Adult Safeguarding Services

1.1 This Statement of Principles sets out the principles by which the Council, as the Licensing Authority (referred to in this document as ‘the Licensing Authority’) under the Gambling Act 2005 (referred to in this document as ‘the Act’), intends to apply in discharging its functions to license premises for gambling under the Act as well as:-

- designating the body responsible for advising the Authority on **safeguarding and** the protection of children from harm.
- determining whether or not a person is an “Interested Party”;
- exchanging information with the Gambling Commission and others; and
- inspecting premises and instituting proceedings for offences under the Act.

3. The Licensing Objectives

3.1 In exercising most of its functions under the Act, the Licensing Authority must have regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:-

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- **Prevention of and challenge to underage gambling**

3.2 The objectives do not include considerations in relation to public safety or public nuisance, while the requirement in relation to children and vulnerable persons is explicitly to protect them from being harmed or exploited by gambling, rather than from more general forms of harm or exploitation. In its guidance to licensing authorities, the Commission advises that this will involve “preventing them from taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children, excepting Category D gaming machines

This action will be supported through continued strengthening of the protections in place to prevent underage gambling such as age verification checks
(Gambling Commission.gov.uk)

8.1 In producing this Policy, the Council consulted with those bodies listed in Annex A, the statutory consultees, local groups and other interested parties. In particular it consulted with those organisations working with people who are problem gamblers; the Citizens Advice Bureau, Public Health and **Children /Adult Safeguarding Services**

11.3 For example, it could be reasonable for an Authority to conclude that “sufficiently close to be likely to be affected” could have a different meaning

for (a) a private resident (b) a residential school with children who have poor school attendance and (c) a residential hostel for vulnerable adults.
(b) suggest.. a residential setting for children with additional vulnerabilities
This would capture more vulnerabilities than non-school attendance

4.8 The Licensing Authority expects all licensed premises' to have their local area risk assessment available on site for inspection by an authorised officer at all times when they are trading.

Would you also expect to see logbooks or records of refusal?

Protecting children and other vulnerable persons from being harmed or exploited by gambling

- This Licensing Authority will expect applicants to consider the measures necessary to be reasonably consistent with the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling.
- The Gambling Commission's guidance for this objective means preventing children from taking part in gambling (as well as restrictions on advertising so that gambling products are not aimed at or are particularly attractive to children). The Licensing Authority will therefore consider, as suggested in the guidance, whether specific measures are required at particular premises, with regard to this licensing objective.
- The Licensing Authority is also aware of the Codes of Practice that the Gambling

Commission has issued in respect of this licensing objective, in relation to specific categories of premises. (TYPO)

18.3 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises, but would also encourage applicants to voluntarily offer their own measures to promote the licensing objectives. Such measures may include:

- Proof of age schemes
- CCTV
- Supervision of entrances and machine areas
- Physical separation of areas
- Provision of information leaflets/helpline numbers for organisations such as GamCare
- Self-barring schemes
- Measures/training for staff on how to deal with suspected under 18 users or truant school children on the premises
- Measures/training for staff by way of written procedures covering how staff would deal with unsupervised and obviously very young children being on the premises, or unsupervised children causing problems on or around the vicinity of the premises.
- Specific opening hours

Essex Police

FW: EXTERNAL - Consultation on Colchester Borough Council's Draft Statement of Principles for Gambling

LC

Licensing Colchester <licensing.colchester@essex.police.uk>

Thu 14/10/2021 07:45

To:

• Sarah White

Gambling Policy 2022-2025 for consultation.docx

1 MB

Hi Sarah

No observations from me

Thanks

Alan BECKETT

Police Licencing Officer 75984

RE: Consultation on Colchester Borough Council's Draft Statement of Principles for Gambling

To:

• Licensing Team

Cc:

Dear Sarah –

Thank you for the opportunity to comment on the statement of gambling policy. I've always felt that ability of persons to exclude themselves from establishments when concerned about gambling addiction is important and I see that provision is made to enable this in 4.5 and 4.7. Importantly, the statement was produced after consultation with Citizens Advice Bureau and Public Health 8.1. Whether enough is being done to defend against the problem of fixed betting machines is a moot point.

The requirement that children are protected is well met, in terms of location of premises, local schools and play areas.

The Licensing Objectives are clearly stated, preventing gambling from being a source of crime, ensuring that it conducted in a fair and open way and protecting children and other vulnerable persons from harm.

The consultation process is well set out.

Nick Cope



Statement of Principles for Gambling 2022-2025

Colchester Borough Council

31 January 2022

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FOREWORD

Welcome to the latest review of the Council's Statement of Principles for Gambling. The Statement sets out how the Council will regulate gambling activities within the Borough.

Whilst for the majority of the general public gambling is an enjoyable and often social experience, it is for some individuals a largely hidden addiction which taken to excess has an adverse impact on their finances, health, wellbeing and relationships.

The wellbeing of our residents is a key priority for the Council and the Gambling Policy has a role to play in supporting this priority through its control of gambling premises. To this end the revised policy requires all gambling premises and new applicants to have appropriate risk assessments in place for all their activities. To assist in the completion of these risk assessments the Council has drawn up a local area profile which provides a comprehensive assessment of local risks.

We hope that the new revised policy is clear and easily understood and that the local area profile will be of significant use to the Council, its partners and operators when considering gambling matters.

Darius Laws

Portfolio Holder for Economy, Business and Heritage

PART A – INTRODUCTION

1.1 This Statement of Principles sets out the principles by which the Council, as the Licensing Authority (referred to in this document as ‘the Licensing Authority’) under the Gambling Act 2005 (referred to in this document as ‘the Act’), intends to apply in discharging its functions to license premises for gambling under the Act as well as:-

- designating the body responsible for advising the Authority on the protection of children from harm;
- determining whether or not a person is an “Interested Party”;
- exchanging information with the Gambling Commission and others; and
- inspecting premises and instituting proceedings for offences under the Act.

2. Declaration

2.1 In this Statement the Licensing Authority declares that it has had regard to the licensing objectives, formal Guidance issued to Licensing Authorities and any responses received during the consultation process and will adopt the Principles of Better Regulation.

2.2 Appendices and information relating to this statement providing further information and guidance are intended only to assist readers and should not be interpreted as legal advice or as part of the Council’s policy. Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Gambling Act 2005, or the Guidance or regulations issued under the Act.

3. The Licensing Objectives

3.1 In exercising most of its functions under the Act, the Licensing Authority must have regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:-

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

3.2 The objectives do not include considerations in relation to public safety or public nuisance, while the requirement in relation to children and vulnerable persons is explicitly to protect them from being harmed or exploited by gambling, rather than from more general forms of harm or exploitation. In its guidance to licensing authorities, the Commission advises that this will involve “preventing them from

taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children, excepting Category D gaming machines.

This action will be supported through continued strengthening of the protections in place to prevent underage gambling such as age verification checks.

4. Strategic Plan

4.1 The Council's strategic plan is the overarching strategy for the Borough setting out the direction and potential for the Borough and integrating social, economic and environmental strategies. The Council's focus is on -

- Tackling the climate challenge and leading sustainability
- Creating safe, healthy, and active communities
- Delivering homes for people who need them
- Growing fair economy so everyone benefits.
- Celebrating our heritage and culture.

4.2 This Policy aims to contribute to this vision through the efficient and effective regulation of gambling premises thereby ensuring that the local risks identified are addressed.

5. Description of the District

5.1 Colchester is Britain's first recorded city. It was the administrative centre of Roman Britain and has a heritage of national importance dating back over 2000 years. The modern borough of Colchester has a thriving town centre with a vibrant and diverse night-time economy, attractive villages and important natural landscapes. Because of its strategic position and the availability of brownfield sites it has, in recent years, seen considerable growth and is now one of the fastest growing towns in the Country; the existence of the Garrison and University contribute to the overall diversity of the area.

5.2 The town is strategically positioned just 45 minutes away by road from London's third airport at Stansted and is close to the Haven Ports of Harwich International and Felixstowe. With excellent rail links to London and the A12/M25 road networks so accessible, Colchester is close enough to London to provide good business opportunities at an economic rate. Colchester is the natural centre for the surrounding rural areas of north Essex, south Suffolk and beyond.

6. Responsibilities under the Act

- 6.1 The Act introduced a licensing regime for commercial gambling, to be operated by the Gambling Commission and/or by Licensing Authorities, depending on the matter to be licensed.
- 6.2 The Council is the Licensing Authority for the Borough of Colchester and its responsibilities must be discharged by a Licensing Committee created under Section 6 of the Licensing Act 2003.
- 6.3 The Gambling Commission is responsible for issuing operating and personal licences to persons and organisations who:-
- operate a casino;
 - provide facilities for playing bingo or for pool betting;
 - provide betting or act as intermediaries for betting;
 - make gaming machines available for use in Adult Gaming Centres and licensed Family Entertainment Centres;
 - manufacture, supply, install, adapt, maintain or repair gaming machines; • manufacture, supply, install or adapt gambling machine software; or
 - promote a lottery.
- 6.4 The Council as the Licensing Authority is responsible for licensing premises in which gambling takes place. All types of gambling are included, other than spread betting (regulated by the Financial Services Authority) and the National Lottery (regulated by the National Lottery Commission). It is responsible for issuing permits for premises with gaming machines and for receiving notices from operators wishing to use unlicensed premises for gambling on a temporary basis. It is also responsible for the registration of certain types of exempt small society lotteries.
- 6.5 The Council cannot become involved in the moral issues relating to gambling and must aim to permit the use of premises for gambling in so far as it thinks it is:-
- a. in accordance with any relevant Codes of Practice under Section 24 of the Act;
 - b. in accordance with any relevant Guidance issued by the Gambling Commission under Section 25;
 - c. reasonably consistent with the licensing objectives (Subject to paragraphs a and b above, and
 - d. in accordance with the Council's Statement of Licensing Policy (subject to paragraphs a and c above.
- 6.6 Before the Licensing Authority can consider an application for a premises licence, an operating licence and a personal licence must have been obtained from the Gambling Commission.

7. Statement of Licensing Principles for Gambling Policy

- 7.1 The Licensing Authority is required by the Act to publish a Statement of Licensing Principles for Gambling Policy every three years. This Policy must be reviewed from 'time to time' and any proposed amendments and/or additions must be subject to fresh consultation. The 'new' Policy must then be published.
- 7.2 This Policy takes effect on 31 January 2022 and replaces the Policy previously in force.

8. Consultation

- 8.1 In producing this Policy, the Council consulted with those bodies listed in Annex A, the statutory consultees, local groups and other interested parties. In particular it consulted with those organisations working with people who are problem gamblers; the Citizens Advice Bureau and Public Health and **Children/Adult Safeguarding Services**.
- 8.2 The Act requires that the following parties are consulted by the Licensing Authority:-
- the Chief Officer of Police for the Authority's area;
 - one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
 - one or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.
- 8.3 The consultation will take place between 1 October and 1 November 2021.

9. Approval of the Policy

- 9.1 This Policy must be submitted to full Council for approval in order to come into effect on 31 January 2022.
- 9.2 It should be noted that this Policy does not override the right of any person to make an application, to make representations about an application, or to apply for a review of a licence; each case will be considered entirely on its own individual merits and in accordance with the requirements of the Act.

10. Responsible Authorities

- 10.1 A full list of the Responsible Authorities designated under the Act and their contact details are given on the Council's website and attached at Annex B. It should be noted that, under the Act, the Licensing Authority is designated as a Responsible Authority.

10.2 The Licensing Authority is required to designate, in writing, a body that is competent to advise it about the protection of children from harm. In making this designation the following principles have been applied:-

- the competency of the body to advise the Licensing Authority;
- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area; and
- the need for the body to be answerable to democratically elected persons rather than any particular invested interest group etc.

10.3 In accordance with the Gambling Commission's Guidance to Local Authorities, the Council has designated the Essex County Council Children's Safeguarding Service for this purpose.

11. Interested Parties

11.1 Interested Parties can make representations about licensing applications or apply for a review of an existing licence. An Interested Party is defined in the Act as follows:-

'... a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person

- a. lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b. has business interests that might be affected by the authorised activities,
- c. represents persons who satisfy paragraphs (a) or (b)'.

11.2 In determining whether a person lives or has business interests sufficiently close to the premises, that they are likely to be affected by the authorised activities, the Licensing Authority will consider the following factors:-

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment);
- the circumstances of the complaint. This does not mean the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises;
- the catchment area of the premises (i.e. how far people travel to visit); and
- whether the person making the representation has business interests in that catchment area that might be affected.

- 11.3 For example, it could be reasonable for an Authority to conclude that “sufficiently close to be likely to be affected” could have a different meaning for (a) a private resident (b) ~~a residential school with children who have poor school attendance~~ **a residential setting for children with additional vulnerabilities** and (c) a residential hostel for vulnerable adults.
- 11.4 It will also consider the Gambling Commission's guidance that "business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices. Trade associations, trade unions, residents and tenants' associations will normally only be viewed as interested parties if they have a member who can be classed as an interested party – i.e. who lives sufficiently close to the premises to be likely to be affected by the activities for which application is being made.
- 11.5 Interested parties can be persons who are democratically elected such as Councillors and Members of Parliament (MPs). No specific evidence of being asked to represent an interested person will be required as long as the Councillor / MP represents the ward likely to be affected. Other than these however, this Authority will generally require written evidence that a person/body (e.g. an advocate or relative) 'represents' someone who is an interested party. Members who are asked by an interested party to represent them should not sit on the Sub-Committee considering that application
- 11.6 The Licensing Authority will decide if a representation made in respect of an application is valid based on the following factors:
- It is not frivolous or vexatious.
 - It raises issues that relate to Guidance issued by the Gambling Commission.
 - It raises issues that relate to this policy.
 - It relates to the licensing objectives.

12. Licensing Authority Functions and Exchange of Information

- 12.1 Licensing authorities have responsibilities under the Act for:
- the licensing of premises where gambling activities are to take place, through the issuing of Premises Licences;
 - the preliminary approval of proposed premises for gambling activities, through the issue of Provisional Statements;
 - the regulation of members' clubs, commercial clubs and miners' welfare institutes who wish to undertake certain gaming activities, through Club Gaming Permits and/or Club Machine Permits;

- the receipt of notifications and the issue of permits for the provision of gaming machines at premises licensed to supply alcohol for consumption on the premises, under the Licensing Act 2003;
- the regulation of family entertainment centre premises providing gaming machines;
- the regulation of prize gaming through the issue of permits;
- the receipt and endorsement of Temporary Use Notices, for infrequent gaming activities;
- the receipt of Occasional Use Notices, for infrequent betting activities;
- the registration of non-commercial societies for the provision of small society lotteries;
- the exchange of information with the Gambling Commission regarding details of licences, permits and notices and enforcement issues (see section below on 'exchange of information'); and the maintenance of registers of the applications, licences, permits and notices received and issued by the Authority
- Maintain registers of the permits and licences that are issued under these functions

12.2 The Licensing Authority will not involve itself in any matters relating to the regulation of remote gambling (for example, telephone betting or internet casino gaming), the responsibility for which lies with the Gambling Commission

12.3 Duplication of other regulatory regimes, such as health and safety or fire safety, will be avoided in so far as is possible. This Authority will not consider whether a premise that is the subject of a licensing application is likely to be awarded planning permission or building regulations approval, in its consideration of that application. This Authority will, though, listen to, and consider carefully, any concerns about conditions that are not able to be met by applicants or licence holders due to planning restrictions, should such a situation arise.

12.4 Delegation of Powers

Licensing Authority has agreed a scheme of delegation for discharging its functions under the Act.

Matter to be Dealt with	Council	Licensing (Sub) Committee	Officers
Final approval of Statement of Principles	x		
Resolution not to issue casino licences	x		
Fee setting (where appropriate)			x

Application for a provisional statement		Where representations have been received and not with drawn	Where representation have were not received or all have been withdrawn
Application for a premise Licence		Where representations have been received and not with drawn	Where representation have were not received or all have been withdrawn
Application for variation of a premise licence		Where representations have been received and not with drawn	Where representation have were not received or all have been withdrawn
Application for reinstatement of a premise licence		Where representations have been received and not with drawn	Where representation have were not received or all have been withdrawn
Application for transfer of a premise licence		Where representations have been received and not with drawn	Where representation have were not received or all have been withdrawn
Consideration of application for review of a premise licence		x	
Initiations of review of a premise licence by licence authority			x
Application for club gaming/club machine permits		Where objections have been received and not with drawn	Where objections have were not received or all have been withdrawn
Cancellation of club gaming/club machine permits		x	x
Application for all permits			x
Cancellation of licensed premises gaming machine permits			x
Consideration of temporary use notice		Where objections have been received and not with drawn	Where objections have were not received or all have been withdrawn
Acknowledgement of occasional use notice			x
Registration of non-commercial			x

societies for small society lotteries			
Revocation of non-commercial societies for small society lotteries			x

12.5 In its exchange of information with parties listed in Schedule 6 of the Act, the Licensing Authority will have regard to:-

- the provisions of the Act, which include the provision that the Data Protection Act 1998 and the General Data Protection Regulation 2016 will not be contravened.
- the Guidance issued by the Gambling Commission.
- relevant Legislation and Regulations

12.6 In accordance with Section 350 of the Gambling Act 2005, the Licensing Authority may exchange information with the following statutory bodies or individuals:

- A constable or police force
- An enforcement officer
- A licensing authority
- Her Majesty's Revenue and Customs
- The Gambling Appeal Tribunal
- The Secretary of State
- Scottish Ministers
- Any other person or body designated by the Secretary of State in accordance with the Act.

12.7 The Licensing Authority may also exchange information provided by applicants with law enforcement agencies for purposes connected with the prevention and detection of crime, but we will only share any personal details for this purpose if required to do so by law.

12.8 Where required by law applicants will receive copies of any representations made in respect of their application, although sensitive or personal information not required to be disclosed will be redacted.

13. Public Register

13.1 The Licensing Authority is required to keep a public register and share information in it with the Gambling Commission and others. Regulations prescribe what

information should be kept in the register. Copies of the register may be obtained on payment of a fee.

14. Compliance and Enforcement

- 14.1 In exercising its functions with regard to the inspection of premises and to instituting criminal proceedings in respect of offences specified, the Council will follow best practice. This requires that actions should be

Proportionate – Intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.

Accountable – The Authority must be able to justify decisions and be subject to public scrutiny.

Consistent – Rules and standards must be joined up and implemented fairly.

Transparent – Enforcement should be open and regulations kept simple and user friendly.

Targeted – Enforcement should be focused on the problems and minimise side effects.

- 14.2 The Council will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and adopt a risk based inspection programme. All enforcement action is taken having regard to the Regulatory Services Enforcement policy.
- 14.3 The main enforcement and compliance role of the Licensing Authority in terms of the Act, is to ensure compliance with the Premises Licence and other permissions which it authorises. The Gambling Commission is the enforcement body for Operating and Personal Licences. Concerns about the manufacture, supply or repair of gaming machines are not dealt with by the Council but will be notified to the Gambling Commission.
- 14.4 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities and will have regard to best practice.
- 14.5 Where appropriate, complaints will be investigated in accordance with the stepped approach outlined in the Colchester Borough's Enforcement Policy. A copy of this document is available on the Council website. In the first instance we encourage complaints to be raised directly with the licensee or business concerned.
- 14.6 As part of its ongoing inspection regime, The Council may carry out test purchasing to ascertain if a licensee has robust policies in place to prevent underage gambling. Operators will always be advised of the outcome of the test. Where operators carry out their own test purchasing, The Licensing Authority expect to be advised of the results. Should the results show a failure then the Licensing Authority will, in the first instance, work with the operator to review and improve their policies and procedures.

- 14.7 Where there is a Primary Authority Scheme in place, the Licensing Authority will seek guidance from the Primary Authority before taking any enforcement action on matters covered by that scheme. At the time of the publication of this policy there were four Primary Authority arrangements with host local authorities:

Coral - London Borough of Newham
Ladbrokes - Milton Keynes
Paddy Power - Reading
William Hill - City of Westminster

- 14.8 Colchester's Licensing, Food and Safety Enforcement Policy is available via website at <https://www.colchester.gov.uk/info/cbc-article/?id=KA-01453>

15. Gaming Machines

- 15.1 Throughout this document, references are made to gaming machines as being within Categories A, B, C or D, or in some cases, sub-categories such as B1, B2, B3 or B4.
- 15.2 Gaming machines are categorised according to the nature of their operation, the maximum charge to use and the maximum prize available, and the legislation sets out the categories and sub-categories of machines that may be made available under each type of licence or permit. The Secretary of State is responsible for establishing the applicable values of each category and sub-category by way of statutory instrument.
- 15.3 The categories and values applicable to each category are subject to change and are therefore not included in this document. Current information is available from the Gambling Commissions website at <https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/appendix-b-summary-of-gaming-machine-categories-and-entitlements>

16. Gambling Risk Assessments

- 16.1 The Gambling Commission introduced a new licensing condition within the Licence Conditions and Codes of Practice (LCCP) which came into effect in April 2016. This resulted in the requirements for premises based gambling operators to undertake a local gambling risk assessment of their premises and the potential impact that the premises and its operation may have on the licensing objectives. This condition made it a requirement for the gambling operator to consider local area information provided by the Licensing Authority via their Statement of Licensing Principles for Gambling (Licensing Policy).
- 16.2 The introduction of new provisions in the social responsibility code within the LCCP encourages local authorities, the Commission and the industry to work in partnership to address local issues and concerns. The risk based approach provides a better understanding of, and enables a proportionate response, to risk. This approach includes

looking at future risks and thinking about risks in a probabilistic way. Risk is related to the probability of an event happening and the likely impact of that event. In this case it is the risk of the impact on the licensing objectives.

- 16.3 The Council has produced a Local Area Profile (LAP) to assist applicants to conduct, assess and complete a premises-based gambling risk assessments. All gambling operators within the borough or new operators applying for a new licence must have regards to the LAP when completing or revising their risk assessments.
- 16.4 The Council views these risks as an important component of the overall assessment and management of local risks. Colchester will assist operators in this process by providing specific information on its concerns surrounding gambling within the borough and the impact on the licensing objectives. These local risk assessments are specific to the potential harm that gambling premises can have on one or more of the licensing objectives under the Act. They are specific to the premises, the local area and the local community.

17. Definitions - See Annex C.

18. Fees

- 18.1 Non statutory fees are reviewed by the Licensing Authority on an annual basis in accordance with the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007. Details of current fees can be obtained by contacting licensing.team@colchester.gov.uk or alternatively by viewing the Council's Website www.colchester.gov.uk

19. Useful Contacts

- 19.1 The Gambling Commission maintains a list of useful contacts on organisations involved in gambling and their contact details can be found on the Commission's website www.gamblingcommission.gov.uk some of these organisations provide codes of practice on their particular interest area.

PART B – PREMISES LICENCES

1. General Principles

- 1.1 Premises Licences are subject to the permissions/restrictions set out in the Act as well as the specific mandatory and default conditions detailed in Regulations issued by the Secretary of State. The Licensing Authority is able to exclude default conditions and also attach others, where it is thought appropriate.
- 1.2 In accordance with section 150 of the Act, premises licences can authorise the provision of facilities on:
- casino premises
 - bingo premises
 - betting premises, including tracks and premises used by betting intermediaries
 - adult gaming centre premises (for category B3, B4, C and D machines)
 - family entertainment centre premises (for category C and D machines) (note that, separate to this category, the licensing authority may issue a family entertainment centre gaming machine permit, which authorises the use of category D machines only).
- 1.3 Each case will be decided on its merits, and will depend upon the type of gambling that is proposed, as well as taking into account how the applicant proposes that the Licensing Objective concerns can be overcome.
- 1.4 The Licensing Authority is required by the Act, in making decisions about Premises Licences, to permit the use of premises for gambling so far as it thinks it:-
- a) in accordance with any relevant Code of Practice under Section 24 of the Act;
 - b) in accordance with any relevant Guidance issued by the Gambling Commission under Section 25;
 - c) reasonably consistent with the Licensing objectives (Subject to paragraphs a) and b))and
 - d) in accordance with the Licensing Authority's Statement of Licensing Policy (subject to paragraphs a) and c)).

2. Definition of Premises

- 2.1 In the Act 'premises' is defined as including 'any place'. It is for the Licensing Authority (having due regard for the Gambling Commission Guidance) to determine on the merits of each application whether different parts of a building can be regarded properly as separate premises.

- 2.2 The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

3. Demand

- 3.1 Demand is a commercial consideration and is not an issue for the Licensing Authority.

4. Location

- 4.1 Location will only be a material consideration in the context of the licensing objectives.
- 4.2 The Act is clear that demand issues (e.g. the likely demand or need for gambling facilities in an area) cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The Licensing Authority will pay particular attention to the objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 4.3 In order for location to be considered, the Licensing Authority will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives. From 6 April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, that licensees assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.
- 4.4 The LCCP also states that licensees must review (and update as necessary) their local risk assessments:
- to take account of significant changes in local circumstance, including those identified in this policy;
 - when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
 - when applying for a variation of a premises licence; and
 - in any case, undertake a local risk assessment when applying for a new premises licence.
- 4.5 The Licensing Authority expects the local risk assessment to consider as a minimum:
- whether the premises is in an area of deprivation
 - whether the premises is in an area subject to high levels of crime and/or disorder

- the ethnic profile of residents in the area, and how game rules, self exclusion leaflets etc. are communicated to those groups
 - the demographics of the area in relation to vulnerable groups
 - the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather
- 4.6 In every case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.
- 4.7 Other matters that the assessment may include:
- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
 - Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
 - The layout of the premises so that staff have an unobstructed view of persons using the premises.
 - The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
 - Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, **records of refusal**, window displays and advertisements not to entice passers-by etc.
 - The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
 - Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide betting machines.
- 4.8 The Licensing Authority expects all licensed premises' to have their local area risk assessment available on site for inspection by an authorised officer at all times when they are trading.
- 4.9 Such information may be used to inform the decision the Council makes about whether to grant a licence, to grant a licence with special conditions or to refuse an application.
- 4.10 This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

5. Duplication with other Regulatory Regimes

- 5.1 Duplication with other statutory/regulatory regimes will be avoided where possible. The Licensing Authority will not consider whether a licence application is likely to be granted Planning Permission or Building Control consent.

6. The Licensing Objectives

- 6.1 Premises Licences granted must be reasonably consistent with the three Licensing objectives. With regard to these objectives, the following will be considered:-

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime

- This Licensing Authority will expect applicants to consider the measures necessary to be reasonably consistent with the licensing objective of preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- This Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime, and that regulatory issues arising from the prevention of disorder are likely to focus almost exclusively on premises licensing, which is the remit of the Licensing Authority. The Gambling Commission's guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Where an area is known to have high levels of crime, this Authority will consider carefully whether gambling premises are suitable to be located there, taking into account such factors as,
 - levels of recorded crime;
 - the type of that crime;
 - levels of anti-social behaviour-related complaints.
- Applicants are advised to examine crime and anti-social behaviour statistics that relate to the vicinity of their application. They will be expected to have a good understanding of the local area in which they operate, or intend to operate, a gaming premises. The applicant must evidence that they meet the criteria set out in this policy. Operators must be aware of how their operation may impact this objective. Applicants will be expected to provide details of their crime prevention measures and any associated risk assessments carried out.
- Applicants for premises licences must meet the requirements of the Commission to obtain and hold an operator's licence. Applicants will have to hold such licence (except occupiers of tracks who do not propose to offer gambling themselves). The Licensing Authority will not (unless evidence to the contrary comes to light) have to ascertain if the

applicant is suitable to hold a premises licence. The Licensing Authority will have to be satisfied that the premises will not adversely affect the licensing objectives and is compliant with the Commission's Guidance, codes of practice and this Statement of Principles.

- This Licensing Authority accepts that issues of nuisance cannot be addressed via the Gambling Act provisions, although preventing gambling from being a source of disorder is a licensing objective. The Licensing Authority is also mindful that what starts as nuisance may subsequently escalate to disorder, and that such disorder can have a serious effect on the lives of local residents. If an application for licence review were to be made on the basis of disorder the Authority will then distinguish between disorder and nuisance, considering factors such as:
 - whether police assistance was required
 - how threatening the behaviour was to those who could see it
 - how frequently it is reported
 - prevalence of persons loitering outside
 - the times of day when disorder is reported
 - the impact on residents

Ensuring that gambling is conducted in a fair and open way

- This Licensing Authority will expect applicants to consider the measures necessary to be reasonably consistent with the licensing objective of ensuring that gambling is conducted in a fair and open way.
- The Gambling Commission is the primary body concerned with ensuring that each operator conducts gambling in a fair and open way. This Licensing Authority will consider each application on its own merits and will look more closely at operator where an operator's licence is not required. Track owners do not require an operator's licence and any application for such a licence will be scrutinised to ensure this objective is met. In these circumstances, the applicant would be expected to address how they intend to ensure that gambling will be conducted fairly and openly. The Licensing Authority may consider imposing conditions to ensure that the environment in which betting takes place is suitable.

Protecting children and other vulnerable persons from being harmed or exploited by gambling

- This Licensing Authority will expect applicants to consider the measures necessary to be reasonably consistent with the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling.

- The Gambling Commission's guidance for this objective means preventing children from taking part in gambling (as well as restrictions on advertising so that gambling products are not aimed at or are particularly attractive to children). The Licensing Authority will therefore consider, as suggested in the guidance, whether specific measures are required at particular premises, with regard to this licensing objective.
- The Licensing Authority is also aware of the Codes of Practice that the Gambling Commission has issued in respect of this licensing objective, in relation to specific categories of premises.
- It is noted that the Act and Commissions Guidance does not define the term “vulnerable persons”. It is noted that the Gambling Commission states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs”. This Licensing Authority will consider the promotion of this licensing objective on a case by case basis.
- In a borough where both alcohol and drug dependency can be an issue the Licensing Authority are particularly concerned about both the health and social wellbeing of residents. Applicants must be able to demonstrate within their application how they will protect vulnerable persons, possibly by providing information on how they operate exclusion schemes, the way in which they identify those gambling beyond their means and the measures they take to stop those suffering from any impairment from participating in gambling, and also the training provided to staff to support these aims.
- It is appreciated that, in accordance with the Gambling Commission’s guidance, moral objections to gambling are not a valid reason to reject applications for premises licences, and also that unmet demand is not a criterion for a Licensing Authority to consider.
- The Licensing Authority expects applicants to take appropriate measures to promote the licensing objectives, which may include such issues as proof of age schemes, supervision of entrances and gaming machine areas, CCTV, physical separation of areas, self-exclusion schemes, and provision of information leaflets / helpline numbers for organisations such as GamCare. This list is not mandatory, nor exhaustive, and is merely indicative of example measures.
- The issue of a premises licence must be reasonably consistent with the promotion of the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Gambling Commission’s guidance to licensing authorities

7. Conditions

- 7.1 The Licensing Authority is aware that the mandatory and default conditions imposed by the Gambling Commission will normally be sufficient to regulate gambling premises. In exceptional cases where there are specific risks or problems associated with a particular locality, specific premises or class of premises the Authority may consider attaching individual conditions related to the Licensing objectives.
- 7.2 Any conditions attached to licences will be proportionate and will be:-
- relevant to the need to make the proposed premises suitable as a gambling facility;
 - directly related to the premises and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises; and
 - reasonable in all other respects.
- 7.3 In addition, the Licensing Authority will examine how applicants propose to address the Licensing objectives. In considering applications the Licensing Authority will particularly take into account the following, if deemed appropriate:-
- Proof of age schemes;
 - Closed Circuit Television;
 - Door Supervisors;
 - Supervision of entrances/machine areas;
 - Physical separation of areas;
 - Location of entrances;
 - Notices and signage;
 - Specific opening hours; and
 - With particular regard to vulnerable persons, measures such as the use of self-barring schemes, provision of information, leaflets, helpline numbers for organisations such as GamCare;
- 7.4 It is recognised that there are conditions which the Licensing Authority cannot attach to Premises Licences. These are:-
- Any conditions on the premises licence which make it impossible to comply with an operating licence condition
 - Conditions relating to gaming machine categories, numbers or method of operation
 - conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated);
 - conditions in relation to stakes, fees, and the winning of prizes.
- 7.5 An applicant can request that default conditions are excluded from a licence, and in these circumstances the Licensing Authority may instead impose an appropriate condition that addresses a similar matter to the excluded condition (for example, if a default condition relating to permitted trading times is excluded, the Licensing Authority may attach a condition permitting longer trading hours). The Licensing

Authority will give a full explanation of the rationale behind the decision to attach any additional condition, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of door supervisors, appropriate signage for adult only areas etc. This Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

- 7.6 The Licensing Authority recognises that betting premises may only offer gambling facilities between the hours of 07.00 and 22.00, these being the default hours. The Licensing Authority will expect new applicants to consider if these hours are appropriate for the location subject to the application. The Authority is aware that in some areas early morning start times can cause anti-social behaviour problems, and the Authority is keen to ensure that newly granted licences do not exacerbate existing problems.

8. Local Area Profile

- 8.1 Each locality has its own character and challenges. In order to assist applicants, the Council has produced a Local Area Profile (LAP); the profile outlines the possible risks to gambling-related harm. The LAP sets out the information that gambling operators need to consider for new applications or when updating their risk assessments for existing premises. The LAP is published as a separate document to this policy and does not form part of it. The LAP may be reviewed by the Licensing Authority at any time. Such a review would not constitute a review of this Policy. The local area profile will be presented to any subsequent Licensing Sub-Committee when they determine an application that has received representations.
- 8.2 The Council considers that these local risk assessments are a key component of the overall assessment and management of the local risks. Applicants are able to refer to the Local Area Profile to establish the risks for the area and what vulnerable groups are present. This will inform the consideration and implementation of any control measures that would mitigate the risk to the vulnerable. The applicant must set out the risks, their consideration and adequate control measures within their premises risk assessments. The LAP should not be taken as the definitive overview of a particular area and applicants are encouraged to use their own local knowledge in addition to the content of the LAP to inform their local risk assessments.
- 8.3 The Licensing Authority will assess the risks presented and determine whether the proposed steps are suitable to mitigate the risks of harm within the area.
- 8.4 The Licensing Authority will expect all applicants for a new licence to submit the completed assessment with their application. A template of a suggested local risk assessment form for is included at Annex E. Applicants and licence holders may use this template or create their own.

9. Location of Premises

- 9.1 Applicants for new or variation applications of premises licences in a 'gambling vulnerability zone' must include detailed information as to how the proposals will be reasonably consistent with the gambling objectives and policies. A 'vulnerability zone' is defined as any premises which is within close proximity or on a main route to a school, other educational institution, hostel or other sensitive location(s) where there is the potential for exposing children, young people or other vulnerable persons to gambling
- 9.2 Applicants are expected to establish whether there are any sensitive premises or locations within close proximity to the premises and what the risk level is for the area based on vulnerability. Where this is the case, applicants should submit information as to how they plan to be reasonably consistent with the strand of the licensing objectives concerned with the protection of children and other vulnerable persons from being harmed or exploited by gambling. The additional supporting information may contain the following:
- 9.3 How the premises operate will restrict access to children, young people or other vulnerable persons:
- whether a proof of age scheme is being used
 - will the appropriate number of security staff be employed at appropriate times;
 - will opening times be set so that the premises are not open during school start and finish times; and
 - what procedures and staff training are in place to identify vulnerable persons such as problem gamblers, those who are inebriated through drink or drugs, etc.
- This list is not mandatory, nor exhaustive, and is merely indicative of example measures.
- 9.4 The applicant for a premises licence will have to specifically consider how the location of the premises will impact on the objectives. Applicants will have to clearly show that they have considered the potential impact of their proposed business on the licensing objectives and propose ways that will reduce or remove any likely adverse impact on them.
- 9.5 The council will consider proposals for new gambling premises that are in close proximity to hostels or other accommodation or centres catering for vulnerable people, including those with mental disabilities or learning difficulties, and those with problem gambling or with alcohol or drug abuse problems, as very likely to adversely affect the gambling objectives.
- 9.6 The council considers that 'sensitive locations' will include locations which have been identified as having a higher concentration of vulnerable groups and where there are concentrations of gambling premises in an area where children or other vulnerable persons are likely to be harmed or exploited.

- 9.7 It should be noted that this policy does not preclude any application being made and that every application will be decided on its individual merits, with the opportunity given for the applicant to show how potential concerns can be overcome.
- 9.8 The Licensing Authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- all such machines are located in an area of the premises which is separated
 - from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 - only adults are admitted to the area where these machines are located;
 - access to the area where the machines are located is supervised;
 - the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
 - at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18
- 9.9 These considerations will apply to premises including buildings where multiple premises licences may have effect.

10. Division of premises and Primary usage

- 10.1 In the Act, 'premises' is defined as including 'any place'. Section 152 of the Act prevents more than one premises licence applying to any single place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, tracks or shopping centres to obtain discrete premises licences, where appropriate safeguards are in place.
- 10.2 This Licensing Authority takes particular note of the Gambling Commission's guidance which states that licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non- gambling) purposes. In particular they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore, premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
 - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised, and people do not "drift" into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.

- Customers should be able to participate in the activities identified on the premises licence.

10.3 The Licensing Authority will also consider specific measures that may be required for buildings that are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's guidance.

10.4 This Licensing Authority is also aware that an issue has arisen in some parts of the country, where operators have sought to sub-divide existing single licensed premises, and obtain further premises licences in respect of each sub-division. It has been observed that this practice has been used predominantly in respect of categories of premises licences which allow the operation of a small, fixed number of high-value gaming machines – in effect, using multiple premises licences in respect of different areas of a single business to artificially increase the permitted number of category B machines that can be made available.

10.5 The Licensing Authority notes the Commission's guidance that "in most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, '32 High Street'. But that does not mean that '32 High Street' cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances." When assessing whether premises can be regarded as separate, the Licensing Authority proposes to apply the following criteria:

- Does each premises have its own external entrance, or is this accessed via another premises?
- Does each premise trade as a separate entity, or under a single banner?
- Are the premises subject to separate non-domestic rateable valuations?
- Is each premises operated by different persons, or by the same proprietor?
- What is the quality of separation (i.e. if dividing barriers are to be used, are they temporary or permanent, do they provide floor to ceiling division or are they of a fixed height, are they transparent or opaque, etc)?
- Is there a genuine need to establish a division between premises, or is the division aimed solely at artificially increasing the permitted number of high-value gaming machines?

10.6 If it is proposed to utilise sterile, non-gambling areas to create sub-divisions, then the Licensing Authority will apply the following criteria to those areas:

- Is the area proposed for non-gambling activities a token separation?
- Is it genuinely an area which the public would go to for purposes other than gambling?
- Is it in effect a device to introduce artificial separation or genuinely a functionally separate area?

- Is there in effect direct access between the divisions or is there a place from which access can be gained to two premises?

10.7 The Licensing Authority also notes that any premises subject to multiple discrete premises licences must be able to comply with the mandatory conditions restricting access to each licensed premises, as follows:

Premise Type	Access restrictions
Adult Gaming Centre	No direct access from any other licensed gambling premise, or from premises with a family entertainment centre gaming machine permit, a club gaming/machine permit, or an alcohol licensed premises gaming machine permit.
Betting (other)	Access from a street or another betting premises only. No direct access from any premises used for retail sale of goods or services
Betting (track)	No direct access from licensed casino or adult gaming centre premise
Bingo	No direct access from licensed casino, adult gaming centre or betting (other) premises
Family Entertainment	No direct access from licensed casino, adult gaming centre or betting premises centre

10.8 In the case of some divided premises, it appears that the intended primary use of a premises licence had not been offered, with operators solely making use of the additional machine entitlement (for example, holding a Bingo premises licence but not making any facilities for playing bingo available). The Gambling Commission consulted on this issue in 2008³, and subsequently issued a revision to the Licence Conditions and Codes of Practice affecting Bingo, Betting and Casino operating licences. Holders of these licences are now mandated to provide suitable and sufficient facilities for their primary gambling activity in any of their associated premises.

11. Door Supervisors

11.1 The Gambling Commission advises in its guidance that if a Licensing Authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require

that the entrances to those premises are supervised and impose a condition to that effect. Consideration must also be given to whether that supervisor needs to be licensed or not, as the statutory requirements vary by premises type.

This Licensing Authority notes the contents of Part 33 of the Commission's guidance, which outlines a limited relaxation of the licensing requirement for door supervisors at licensed bingo and casino premises – however, operators are encouraged to use door supervisors who are licensed by the Security Industry Authority at these venues. Any other venue using door supervisors must use qualified staff registered with the Security Industry Authority

12. Plans

- 12.1 In all applications where a plan is required to be submitted, The Licensing Authority expectation is that, it will be in a scale of 1:100 unless otherwise agreed in writing and that, as a minimum, it will show the following (as appropriate to the type of application):
- The extent of the proposed licensed area
 - All entry and exit points (including fire exits)
 - CCTV camera positions
 - Positions of betting terminals, high pay out machines (including fixed odds betting terminals) and ATM's
 - Any fixed or permanent structures including counters
 - Privacy screens
 - All unlicensed areas under the control of the licensee including any 'sterile area's' and toilet and kitchen facilities be they for staff or public use.

13. Credit

- 13.1 Credit facilities are prohibited in casinos and premises licensed for bingo; however, this does not prevent the installation of ATMs on the premises, although the Licensing Authority may attach conditions as to the siting of such machines, for example by requiring adequate separation from areas used for gambling.

14. Betting Machines

- 14.1 In relation to Casinos, Betting Premises and Tracks, the Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching reasonable and necessary conditions to a Betting Premises Licence or to a Casino Premises Licence (where betting is permitted in the Casino).

14.2 When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, among other things, should take into account:-

- the size of the premises;
- the number of counter positions available for person to person transactions
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons; and
- steps that the applicant has taken, or is offering, to positively and proportionately promote the licensing objectives.

14.3 In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merit and account will be taken of Codes of Practice or Guidance issued under the Act.

15. Provisional Statements

15.1. The Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she:

- expects to be constructed.
- expects to be altered; or
- expects to acquire a right to occupy.

15.2 Developers may wish to apply to this Authority for a provisional statement before entering into a contract to buy or lease property or land, to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement, nor do they need to have a right to occupy the premises in respect of which the application is made.

15.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

15.4 The holder of a provisional statement may subsequently apply for a premises licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or

- they reflect a change in the applicant's circumstances.

15.5 In addition, the Authority may refuse the premises licence (or grant it on terms different from those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the Authority's opinion reflect a change in the operator's circumstances; or
- where the premise has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this Licensing Authority notes that it can discuss any concerns it has with the applicant before making a decision.

15.6 If a developer has already acquired a premise and has a right of occupation, and holds an appropriate operating licence, there is no requirement for them to obtain a provisional statement prior to making an application for a premises licence – this will simply be a matter of choice. However, where premises are likely to require construction or development work prior to being ready for use for gambling (and as such are not in a state where they can be inspected during the application process), the Licensing Authority may seek to attach the following additional conditions to any licence granted:

- The premises are to be constructed in accordance with the deposited plans and shall not trade until such time as they have been inspected and approved by officers of the Licensing Authority.
- The licence is to be offered for surrender should the premises not have been completed in accordance with the deposited plans within the period of 12/18/24 months starting on the day that the licence first takes effect.

16. Reviews

16.1 Applications for a review of a premises licence can be made at any time by interested parties or responsible authorities, including the Licensing Authority. The Licensing Authority must grant an application for review, unless it considers that the grounds on which the review is sought:

- Raise issues that are not relevant to Gambling Commission Guidance/codes of practice, the Licensing Authorities Statement of Policy or the licensing objectives.
- Are frivolous
- Are vexatious
- Will certainly not cause this Authority to wish to alter/revoke/suspend the licence
- Are substantially the same as grounds cited in a previous application relating to the same premises

- Are substantially the same as representations made at the time of the application for the premises licence was considered

- 16.2 The Licensing Authority can also initiate a review of a licence on the basis of any reason that it thinks is appropriate. In particular, the Licensing Authority may initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 16.3 Once a valid application for a review has been received by the Licensing Authority, representations can be made by responsible authorities and interested parties during a 28-day period, that will begin 7 days after receipt of the application. The Licensing Authority will publish notice of the application within this initial 7-day period.
- 16.4 The Licensing Authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 16.5 The purpose of the review will be to determine whether the Licensing Authority should take any action in relation to the licence. If action is justified, the options open to the Licensing Authority are:
- to add, remove or amend a licence condition imposed by the Licensing Authority;
 - to exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
 - to suspend the premises licence for a period not exceeding three months; or
 - to revoke the premises licence
- 16.6 In determining what action, if any, should be taken following a review, the Licensing Authority will have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 16.7 Following the completion of the review, the Licensing Authority will notify its decision in writing to the licence holder, the applicant for review (if any), any person who made representations in respect of the review, and the responsible authorities designated in regulations made under the Act.

17. Adult Gaming Centre

- 17.1 Adult gaming centres (AGCs) premises licences allow the holder of the licence to make gaming machines available for use on the premises. Persons operating an AGC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the Licensing Authority.

- 17.2 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling, and will expect the applicant to satisfy the Authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

18. Licensed Family Entertainment Centre

- 18.1 A Licensed Family Entertainment Centre is defined in Annex C of this policy. Entry to these premises is not generally age restricted, although entry to certain areas may be restricted dependent on the category of machines available for use.
- 18.2 The Licensing Authority will have specific regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. It will encourage the applicant to satisfy the Authority that they have taken reasonable and proportionate measures to ensure that under 18 year olds do not gain access to any area of the premises that may contain adult only gaming machines and that vulnerable persons should not be exploited on the premises.
- 18.3 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises, but would also encourage applicants to voluntarily offer their own measures to promote the licensing objectives. Such measures may include:
- Proof of age schemes
 - CCTV
 - Supervision of entrances and machine areas
 - Physical separation of areas
 - Provision of information leaflets/helpline numbers for organisations such as GamCare
 - Self-barring schemes
 - Measures/training for staff on how to deal with **suspected under 18 users or** truant school children on the premises
 - Measures/training for staff by way of written procedures covering how staff would deal with unsupervised and obviously very young children being on the premises, or unsupervised children causing problems on or around the vicinity of the premises.
 - Specific opening hours

19. Casinos

- 19.1 The Licensing Authority has not passed a resolution under Section 166(1) of the Act which would allow it to grant a Casino licence. Any future decision to pass or not pass such a resolution would be made by the Council's Licensing Committee and

would need to be endorsed by the full Council, but would only be taken after a full consultation process has been undertaken within its area.

- 19.2 The Licensing Authority is aware that where a Licensing Authority's area is enabled to grant a Premises Licence for a new style casino, there are likely to be a number of operators which will want to run a casino. In such situations the Council will run a competition in line with Regulations and Codes of Practice issued under the Act by the Secretary of State.
- 19.3 Conditions may be imposed in relation to betting machine in line with Paragraphs above.
- 19.4 Credit facilities are prohibited in casinos; however, this does not prevent the installation of ATMs on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

20. Bingo Premises

- 20.1 This Licensing Authority notes the Gambling Commission's guidance, that licensing authorities will need to satisfy themselves that it is possible for bingo to be played in any premises for which they issue a bingo premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence and/or apply for new licences, as discussed in the Division of Premises and Primary Usage section above.
- 20.2 Should children be allowed to enter premises licensed for bingo, they are not permitted to participate in the bingo, nor may they make use of any category of gaming machine, other than those in category D. Where category B or C machines are made available in premises to which children are admitted it is expected that:
- all such machines will be located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance.
 - only adults will be admitted to the area where the machines are located;
 - access to the area where the machines are located will be supervised.
 - the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
 - at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 20.3 Credit facilities are prohibited in premises licensed for Bingo; however, this does not prevent the installation of ATMs on the premises, although the Licensing Authority may attach conditions as to the siting of such machines, for example by requiring adequate separation from areas used for gambling.

21. Betting Premises

- 21.1 Betting is defined in Annex 'C'. Entry to these premises is age restricted.
- 21.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.
- 21.3 In relation to betting machines, conditions may be imposed, in accordance with paragraphs 24.1-24.3 above.
- 21.4 In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act.

Fixed Odds Betting Terminals (FOBT's)

- 21.5 In respect to nationally expressed concerns that exist in relation to the potentially adverse impact FOBT's may have on vulnerable groups of adults, The Licensing Authority will give due consideration to the need to apply conditions to betting shop premises licences including, but not limited to, setting out minimum staffing levels to ensure sufficient staff are on the premises to enable staff to comprehensively promote responsible gambling, adequately protect players, particularly in relation to players who are deemed to be vulnerable and to prevent under 18 year olds accessing gambling facilities.
- 21.6 The Licensing Authority expects FOBT's to be positioned in such a way that they can be appropriately monitored by staff particularly where those staff are positioned at a counter away from the machines. In general the Authority is of the view that 'privacy screens' will hamper this and will expect the local area risk assessment to take this into account where applicants intend to construct such screens. Particular attention should be paid to the Gambling Commission's Social Responsibility Codes in this regard, especially code 9.11.1. Where an existing licensee adds 'privacy screens' a variation application will be required

22. Tracks

- 22.1 The Licensing Authority is aware that tracks may be subject to one or more premises licences, provided each licence relates to a specified area of the track. As per the Gambling Commission's guidance, this Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas which they are not permitted to enter.
- 22.2 The Authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult-only gaming

facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse-racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

- 22.3 Parliament has recently amended section 55 of the Act, to allow the employment of persons under the age of 18 years at track premises, in functions not associated with gambling (for example, as ticket checkers, concession kiosk staff, litter collectors, and so on). However, the offence under section 51, prohibiting the employment of children and young persons to provide facilities for gambling, is unaffected. Proprietors of track premises must ensure that any persons under the age of 18 employed at their premises are not called upon to assist with the operation of betting facilities.
- 22.4 The entitlement to make up to four gaming machines available for use at the track premises may only be utilised if the holder of the premises licence also holds a pool betting operating licence. In situations where this is the case and it is proposed to make gaming machines available for use, any gaming machines (other than category D machines) should be located in areas from which children are excluded. If the track premises is licensed for the sale of alcohol, a further two gaming machines may be made available by way of the automatic entitlement for alcohol-licensed premises, upon payment of the appropriate notification fee.
- 22.5 Betting terminals may also be made available for use at track premises, and this Licensing Authority proposes to apply the same principles as set out in the Betting (other) Premises Licence section above to track premises.
- 22.6 A condition to track premises licences is that the track operator is to ensure that the terms for placing bets are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public.
- 22.7 Applicants are required to submit plans of the premises with their application, in order to ensure that the Licensing Authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the Licensing Authority to plan future premises inspection activity. Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations
- 22.8 Some tracks may be situated on open land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises. In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

22.9 This Authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this Authority can satisfy itself that the plan indicates the main areas where betting might take place.

23. Travelling Fairs

23.1 It is for the Licensing Authority to determine whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at a travelling fair is met, where Category D machines and/or equal chance prize gaming without a permit are to be made available for use.

PART C - PERMITS

- 1.1 The Act introduced a range of permits for gambling which are granted by Licensing Authorities. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises. With the exception of limiting machine numbers on Licensed Premises Gaming Machine permits, the Licensing Authority may only grant or reject an application for a permit. No conditions may be added.

2. Unlicensed Family Entertainment Centre Gaming Machine Permits

- 2.1 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for a Permit. It should be noted, however, that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 2.2 The Licensing Authority requires the applicant to submit a scale plan of the premises showing the areas which the permit will cover together with any other areas under the control of the licensee. Generally, this will be at a scale of 1:100 but other scales may be submitted with prior agreement from the Licensing Authority.
- 2.3 The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-
- A basic criminal record check for staff or equivalent criminal records check for the applicant and the person(s) having day to day control of the premises;
 - Proof of age schemes;
 - How the applicant proposes to ensure that children will be protected from harm whilst on the premises;
 - Safeguarding training;
 - Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises,
 - children causing perceived problems on, or around, the premises, and
 - Suspected truant children

3. (Alcohol) Licensed Premises Gaming Machine Permits

- 3.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises (under the Licensing Act 2003) to automatically have two gaming machines, of Categories C and/or D, via a notification to the Local Authority.

- 3.2 Gaming machines can only be located on licensed premises that have a bar for serving alcohol to their customers. Premises restricted to selling alcohol only with food will not be able to apply for a permit.
- 3.3 Where an application for more than two gaming machines is received, the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm, or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only machines. Measures will cover such issues as:
- adult machines being in sight of the bar;
 - adult machines being in sight of staff who will monitor that the machines are not being used by those under 18;
 - appropriate notices and signage; and
 - with regard to the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information and leaflets/help-line numbers for organisations such as GamCare; and
 - relevant codes of practice issued by the Gambling Commission.
- 3.4 The Licensing Authority can decide to grant an application with a smaller number of machines and/or a different category of machines than that applied for but conditions other than these cannot be attached.
- 3.5 Where the Licensing Authority is satisfied that the applicant has provided sufficient measures to protect children and vulnerable persons from harm, or from being exploited by gambling, the Licensing Authority will grant permits to Licensed premises without the need for the application to be considered and determined by the Licensing Sub Committee.
- 3.6 Holders of licensed premises gaming machine permits will be required to pay an annual fee.
- 3.7 The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
 - gaming has taken place on the premises that breaches a condition of section 282 of the Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
 - the premises are mainly used for gaming; or

- an offence under the Gambling Act 2005 has been committed on the premises.

3.8 Before the council cancels or varies a permit it will give the permit holder 21 days' notice of its intention and allow them the opportunity to make a representation. If the permit holder requests a hearing the council will arrange a Licensing Sub-Committee hearing to consider the permit holder's representation and any other evidence available before making its determination

4. Prize Gaming Permits

- 4.1 The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children and vulnerable adults from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-
- A basic criminal record check for staff or equivalent criminal records check for the applicant and the person(s) having day to day control of the premises;
 - Proof of age schemes;
 - How the applicant proposes to ensure that children will be protected from harm whilst on the premises;
 - Safeguarding training;
 - Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises,
 - children causing perceived problems on, or around, the premises, and - Suspected truant children
- 4.2 In making its decision on an application for a Permit, the Licensing Authority does not need to have regard to the Licensing objectives, but must have regard to any Gambling Commission guidance.
- 4.3 There are conditions in the Gambling Act 2005 with which the permit holder must comply, but the Licensing Authority cannot attach further conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
 - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
 - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and

- participation in the gaming must not entitle the player to take part in any other gambling

5. Club Gaming and Club Machine Permits

5.1 Members' clubs and miners' welfare institutes may apply for a Club Gaming Permit or a Club Machine Permit, while commercial clubs may apply for a Club Machine Permit only. A Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in regulations. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D) only

5.2 A club must meet the following criteria to be considered a members' club

- It must have at least 25 members;
- It must be established and conducted wholly or mainly for purposes other than gaming (unless the gaming is permitted by separate regulations);
- It must be permanent in nature;
- It must not be established to make a commercial profit;
- It must be controlled by its members equally

Examples of these include working men's clubs, branches of the Royal British Legion and clubs with political affiliations

5.3 The council may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant's premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; and/ or
- an objection has been lodged by the Commission or the police.

5.4 There is also a 'fast-track' procedure available under the Act for qualifying clubs that hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an Authority can refuse a permit are reduced to:

- the club is established primarily for gaming, other than gaming prescribed by regulations made under section 266 of the Act;
- in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

5.5 There are statutory conditions on club gaming permits that no child may use a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

PART D - OCCASIONAL AND TEMPORARY PERMISSION

1. Temporary Use Notices (TUN)

- 1.1 A TUN is defined in Annex C.
- 1.2 A TUN may only be granted to a person or company holding an Operating Licence relevant to the temporary use of the premises. Regulations have been issued by the Secretary of State prescribing the activities to be covered. At present a temporary use notice can only be granted for equal chance gaming.
- 1.3 For the purpose of a TUN, a set of premises is the subject of a TUN if any part of the premises is the subject of the Notice. This prevents one large premises from having a TUN in effect for more than 21 days per year by giving a Notice in respect of different parts.
- 1.4 The definition of “a set of premises” will be a question of fact in the particular circumstances of each Notice that is given. In considering whether a place falls within the definition of “a set of premises” the Licensing Authority will consider, amongst other things, the ownership/occupation and control of the premises.
- 1.5 The Licensing Authority will object to Notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

2. Occasional Use Notices (OUN)

- 2.1 Occasional Use Notices are defined in Annex C of this licensing policy.
- 2.2 The Licensing Authority has very little discretion concerning these Notices, aside from ensuring that a statutory limit of 8 days in a calendar year is not exceeded.
- 2.3 The Licensing Authority will, however, consider the definition of a track and whether the applicant is permitted to avail him/herself of the Notice.

3. Small Society Lotteries

- 3.1 The Gambling Act 2005 regulates all forms of fund-raising lotteries promoted in the UK. With the exception of the National Lottery, which is not regulated under this Act, it is illegal to promote a lottery for private or commercial gain.

- 3.2 While the term 'lottery' is used within the legislation, these provisions are also likely to apply to raffles, prize draws, tombola's, sweepstakes, scratch-card sales, and so on – in short, any arrangement in which a ticket is sold for a random chance of winning a prize. For the sake of simplicity, 'lottery' is used to define all of these.
- 3.3 Broadly speaking, there are two categories of lottery established under the Act –
- **Licensed lotteries** include those run by societies that aim to raise more than £20,000 in a single draw, or £250,000 in a calendar year, as well as any lotteries promoted by a Local Authority. An operating licence must be held by the promoter(s) of these lotteries
 - **Exempt lotteries** fall into one of four sub-categories, each with its own limits on the amounts that can be raised, the purposes for which it can be promoted, and the manner in which it must be run. These sub-categories comprise Incidental Non-Commercial Lotteries, Customer Lotteries, Private Lotteries, and Small Society Lotteries
- 3.4 The administration and enforcement of licensed lotteries is carried out solely by the Gambling Commission, although local authorities may provide information and intelligence to assist in these processes. Of the four sub-categories of exempt lotteries, only Small Society Lotteries require registration with a Local Authority – no authorisation is required for the other three categories. Both the Commission and local authorities may carry out enforcement checks to ensure that any exempt lotteries are carried on in accordance with the relevant legal restrictions.
- 3.5 Should a society registered with a Licensing Authority for the promotion of small society lotteries promote a lottery which causes either on the statutory limits on proceeds to be exceeded, then any subsequent lotteries promoted by that society in the current calendar year or any of the following three calendar years will be deemed to be large society lotteries, and will require the society to obtain a relevant operating licence from the Gambling Commission. The registration with the Licensing Authority will remain in force, but will not serve to authorise any lottery schemes during this period – it is open to the society as to whether to cancel the registration.

4. Free Draws & Skill Competitions

- 4.1 The Gambling Act 2005 does not include any measures to regulate prize draws where there is no charge to enter, nor any competition where the outcome relies significantly upon a participant's skill, judgement or knowledge. Generally, the Licensing Authority will be unable to become involved in any matters relating to these schemes.
- 4.2 However, on some occasions, schemes that are presented as skill competitions will actually fall under the definition of lotteries, or prize (chance) gaming, and would therefore need to comply with the statutory requirements. Alongside the Gambling Commission, licensing authorities are obliged to monitor the boundaries between

lotteries and skill competitions, and will provide advice and assistance to ensure that any competitions are run in compliance with the relevant laws. This Licensing Authority notes the criteria set out in section 14 of the Act relating to the characteristics of a skill competition, and, when called upon to assess a particular scheme, will seek to ensure that the competition includes a suitable challenge of skill, judgement or knowledge that will:

- prevent a significant proportion of people who wish to participate from doing so; or
- Prevent a significant proportion of people who participate from receiving a prize.

ANNEX A - List of Consultees

The draft policy was placed on the Council Website and in accordance with the Act the following organisations and individuals were consulted as part of the formal consultation exercise on the Statement of Gambling Licensing Policy.

- All responsible Authorities for the Gambling Act (as specified in Appendix B).
- Holders of Premises Licences and Permits under the Gambling Act 2005
- Gamblers Anonymous,
- The Licensing Committee
- Public Health

ANNEX B - Responsible Authorities

The following table shows the Responsible Authorities designated under the Act and their relevant contact details.

RESPONSIBLE AUTHORITY	CONTACT DETAILS
Licensing Authority	Licensing, Food & Safety Manager Colchester Borough Council Environment Services PO Box 889 Rowan House 33 Sheepen Road Colchester CO3 3WG e-mail address: licensing.team@colchester.gov.uk
Gambling Commission	Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP e-mail address: info@gamblingcommission.gov.uk
Essex Police	The Licensing Department (Alcohol) Essex Police Braintree CM7 3DJ e-mail address: licensing.applications@essex.pnn.police.uk
Essex County Fire & Rescue Service	Community Commander Colchester & Tendring Community Command Block C Park Road Colchester CO3 3UL e-mail address: NorthEastGroupSDP@essex-fire.gov.uk
Planning Services	Principal Planning Officer Colchester Borough Council PO Box 889 Rowan House 33 Sheepen Road Colchester CO3 3WG e-mail address: duty.planner@colchester.gov.uk
Environmental Protection	Environmental Protection Manager Colchester Borough Council PO Box 889 Rowan House

	33 Sheepen Road Colchester CO3 3WG e-mail: environmentalprotectionteam@colchester.gov.uk
The Body Responsible for the Protection of Children from Harm	Head of Child Protection (Licensing Applications) DG06 D Block Schools, Children and Families Service Essex County Council PO Box 11 Chelmsford CM1 1QH Email: licenceapplications@essexcc.gov.uk
HM Revenue & Customs	HM Revenue and Customs Excise Processing Teams BX9 1GL Telephone - 0300 322 7072 Option 7. e-mail: nrubetting&gaming@hmrc.gsi.gov.uk

In relation to vessels only, the Navigation Authority having functions in relation to any place where the vessel is or is likely to be while activities are carried on in reliance on a premises licence. For this purpose, correspondence should be sent to:

Surveyor-in-Charge
Maritime & Coast Guard Agency
Marine Office
Central Court
1B Knoll Rise

Any further enquiries or assistance can be obtained from the Licensing Authority using the contact details above. These addresses were correct at the time of going to press but are subject to change without notice. Any change made will not form part of a review of the Council's Statement of Licensing Policy

ANNEX C - Definitions/Glossary of Terms

In this Policy the definitions contained in Appendix c are included to provide an explanation of certain terms included in the Act and this Policy. In some cases they are an abbreviation of what is stated in the Act or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Act.

Adult	An individual who is not a child or young person.
Adult Gaming Centre	Premises in respect of which an Adult Gaming Centre Premises Licence has effect (Premises limited to entry by adults making Category B, C and D gaming machines available to their customers).
Authorised Local Authority Officer	A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that Authority's area.
Betting Machines	A machine designed or adapted for use to bet on future real events (not a gaming machine).
Bingo	A game of equal chance.
Casino	An arrangement whereby people are given an opportunity to participate in one or more Casino games.
Casino Resolution	Resolution not to issue Casino Premises Licences.
Child	Individual who is less than 16 years old.
Club Gaming	Equal chance gaming and games of chance in members' clubs and miners' welfare institutes (but not commercial clubs).
Club Gaming Machine Permit	Permit to enable the premises to provide gaming machines (3 machines of Categories B,C or D).
Code of Practice	Any relevant code of practice under Section 24 of the Act.
Conditions	<p>Conditions to be attached to licences by way of:-</p> <p>Automatic provision Regulations provided by Secretary of State Conditions provided by Gambling Commission Conditions provided by Licensing Authority</p> <p>Conditions may be general in nature (either attached to all licences or all licences of a particular nature) or may be specific to a particular licence.</p>

Default Conditions	Conditions that will apply unless the Licensing Authority decides to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.
Delegated Powers	Decisions delegated either to a Licensing Committee, SubCommittee or Licensing Officers.
Disorder	No set interpretation. However, likely to be connected to the way gambling is being conducted. In the case of Gambling Premises' Licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
Equal Chance Gaming	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants
Exempt Lotteries	<p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission.</p> <p>There are four types:</p> <p>Small Society Lottery (required to register with Licensing Authorities).</p> <p>Incidental Non Commercial Lotteries.</p> <p>Private Lottery (Private Society, Work or Residents lottery).</p> <p>Customer Lotteries.</p>
External Lottery Manager	An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the Lottery.
Gaming	Prize Gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before the play commences.
Gaming Machine	Machine covering all types of gambling activity, including betting on virtual events.
Guidance to Licensing Authorities	Guidance issued by the Gambling Commission 3rd edition dated May 2009.

Human Rights Act 1998 Articles: 1,6,8 and 10	Article 1: Protocol 1 The right to peaceful enjoyment of possessions. Article 6: The right to a fair hearing. Article 8: The right of respect for private and family life. Article 10: The right to freedom of expression.
Incidental Non Commercial Lottery	A Lottery promoted wholly for purposes other than private game, and which are incidental to non-commercial events (commonly charity fundraising events, lottery held at a school fete or at a social event such as a dinner dance).
Exchange of Information	Exchanging of information with other regulatory bodies under the Gambling Act.
Interested Party	A person who:- lives sufficiently close to the premises to be likely affected by the authorised activities; have business interests that might be affected by the authorised activities, or represents persons in either of these two groups. See paragraph 10.6 for the criteria the Licensing Authority will apply in determining who lives or has business interests sufficiently close to the premises that they are likely to be affected by any authorised activities.
Licensing Authority	Colchester District Council acting under Section 2 of the Act.
Licensed Family Entertainment Centre	Premises offering Category C gaming machines that are restricted to adults and offering Category D machines to children and young persons in segregated areas.
Licensed Lottery	A Large Society Lottery or a Local Authority Lottery. They require registration with the Gambling Commission.
Licensing objectives	Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. Ensuring that gambling is conducted in a fair and Open way. Protecting children and other vulnerable persons From being harmed or exploited by gambling.
Lottery	An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.

Lottery Tickets	<p>Tickets that must:-</p> <ul style="list-style-type: none"> identify the promoting society; state the price of the ticket, which must be the same for all tickets; state the name and address of the member of the Society who is designated as having responsibility for the Society for the promotion of the lottery or, if there is one, the External Lottery Manager, and State the date of the draw, or enable the date of the draw to be determined.
Mandatory Conditions	Specified conditions provided by Regulations under Section 176 of the Act to be attached to Premises Licences.
Members' Club	<p>A Club that must:-</p> <ul style="list-style-type: none"> have at least 25 members; be established and conducted 'wholly or mainly' for purposes other than gaming; be permanent in nature; not be established to make commercial profit; and be controlled by its members equally.
Occasional Use Notice	Betting may be permitted on a 'track' for eight days or less in a calendar year without the need for a full Premises Licence.
Off Course Betting	Betting that takes place other than at a track, i.e. at a licensed betting shop.
Off Course Betting - Tracks	Betting that takes place in self-contained betting premises with the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operates only on race days.
On Course Betting - Tracks	Betting that takes place on a track while races are taking place.

Operating Licence	<p>Issued by the Gambling Commission. Licence to permit individuals and companies to provide facilities for certain types of gambling. It may authorise remote or non remote gambling</p> <p>Casino Operating Licence</p> <p>Bingo Operating Licence</p> <p>General Betting Operating Licence</p> <p>Pool Betting Operating Licence</p> <p>Betting Intermediary Operating Licence</p> <p>Gaming Machine General Operating Licence (for an Adult Gaming Centre Operator or a Family Entertainment Centre)</p> <p>Gaming Machine Technical Operating Licence (to manufacture, supply, install, adapt, maintain or repair a gaming machine or part of a gaming machine)</p> <p>Gambling Software Operating Licence (to manufacture, supply, install or adapt gambling software)</p> <p>Lottery Operating Licence</p>
Permits	<p>Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises. Issued by the Licensing Authority (for Unlicensed Family Entertainment Centres, Prize Gaming, Gaming Machines, on alcohol related premises, Club Gaming and Club Gaming Machines).</p>
Personal Licence	<p>Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. Cannot be held by companies.</p>
Pool Betting - Tracks	<p>Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the Premises Licence for the track.</p>
Premises	<p>Defined as 'any place', including a vehicle, vessel or moveable structure. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises.</p>
Premises Licence	<p>Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, Adult Gaming Centres and Family Entertainment Centres.</p>

Private Lotteries	<p>There are three types of Private Lotteries:</p> <p>Private Society Lotteries - tickets may only be sold to members of the Society or persons who are on the premises of the Society;</p> <p>Work Lotteries - the promoters and purchasers of tickets must all work on a single set of work premises;</p> <p>Residents' Lotteries - promoted by, and tickets may only be sold to, people who live at the same set of premises.</p>
Prize Gaming	Where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.
Prize Gaming Permit	A permit to authorise the provision of facilities for gaming with prizes on specific premises.
Provisional Statement	<p>Where an applicant can make an application to the Licensing Authority in respect of premises that he:-</p> <p>Expects to be constructed.</p> <p>Expects to be altered.</p> <p>Expects to acquire a right to occupy.</p>
Regulations	Regulations made by the Secretary of State under the Gambling Act 2005.
Relevant Representations	Representations that relate to the Gambling Licensing objectives, or that raise issues under the Licensing Policy or the Gambling Commission's Guidance or Codes of Practice.

Responsible Authorities	<p>Public Bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows:-</p> <p>Colchester District Council acting as the Licensing Authority The Gambling Commission The Chief Officer of Police (Essex Police) Essex County Fire and Rescue Service Local Planning Authority, ie Colchester District Council Planning Department The authority having functions in relation to the environment or harm to human health, i.e. Colchester District Council Environmental Health Essex Local Safeguarding Children's Board HM Revenue and Customs Vessels only - the Navigation Authority whose statutory functions are in relation to waters where the vessel is usually moored or berthed, i.e. the Environment Agency, British Waterways Board, the Maritime and Coastguard Agency Other persons prescribed by the Secretary of State</p>
Small Society Lottery	A lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.
Society	The society or any separate branch of such a society, on whose behalf a lottery is to be promoted.
Temporary Use Notice	To allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.
The Act	The Gambling Act 2005.
The Council	Colchester Borough Council
The Commission	The Gambling Commission.
The Policy	The Statement of Licensing Principles published by the Licensing Authority under Section 349 of the Act.
Tote [or Totalisator]	Pool betting on tracks.

Track	Sites where races or other sporting events take place, e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place.
Travelling Fair	A fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year.
Unlicensed Family Entertainment Centre	Premises offering Category D machines only with unrestricted entry.
Vehicles	Defined trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.
Vulnerable Persons	No set definition, but likely to mean group to include people who:- gamble more than they want to gamble beyond their means who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs
Young Person	An individual who is not a child but who is less than 18 years old.

ANNEX D - Map of Colchester



ANNEX E - Local Area Risk Assessment Example Template

1: Local Area			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
1.1			Systems
			Design
			Physical
1.2			Systems
			Design
			Physical
1.3			Systems
			Design

			Physical

2: Gambling Operation			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
2.1			Systems
			Design
			Physical
2.2			Systems
			Design
			Physical

3.3			Systems
			Design
			Physical

3: Internal and External Premises Design			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
3.1			Systems
			Design
			Physical

3.2			Systems
			Design
			Physical
3.3			Systems
			Design
			Physical

Actions following assessment:			
1: Local Area			
Action	Person/Dept tasked	Date tasked	Date completed

2: Gambling Operation			
Action	Person/Dept tasked	Date tasked	Date completed
3: Internal and External Premises Design			
Action	Person/Dept tasked	Date tasked	Date completed

Signed:		Date:	

Print Name:	
-------------	--

Notes: In addition to the requirement for existing licence holders to have a local area risk assessment, this risk assessment must be completed for all new premises or when the premises licence is varied. The assessment must also be reviewed when there are any significant changes to either the local circumstances and/or the premises.

Risks: Area of consideration that may impact on one or more of the licensing objectives
Local Risks: These are the identified factors that may pose a risk to the licensing objectives by virtue of the provision of gambling facilities at the premises

Licensing objectives: these are the three licensing objectives under the Gambling Act 2005 to which the risk factors have been identified as potentially impacting. For ease of reference within this assessment the objectives have been given codes that should be used to replace the full objective. These codes are CD for the Crime and Disorder objective, FO for the Fair and Open objective and CV for the protection of children and the vulnerable.

Control Measures: These are measures that the operator can put in place to mitigate the risk to the licensing objectives from the risk factors. These control measures are split into three categories, systems, design and physical.

The fact that there are three subsections in each section of the template should not be taken to suggest that you should limit your assessment to three risks for each section. The above template is an example only. You are at liberty to use your own design.

For Consultation only

23 November 2021

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 Policy
 - Whistleblowing Policy
 - Anti-Money Laundering Policy
 - Covert Surveillance Policy
 - Colchester Borough Council Social Media RIPA Policy
 - Data Protection Policy
 - Acceptable Use Policy
 - Information Security Policy
 - Retention Policy
 - Income and Debt Management Policy

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 3 December 2020 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. It is appropriate following the change of Administration and Leader 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, Covert Surveillance, Information Security, Data Protection, Acceptable Use, Data Retention and Income and Debt policies were last reviewed by this Committee at its meeting on 24 November 2020. 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	No. of times invoked during 2020/21	Whether procedures effective
Anti-Fraud and Corruption	None	None	None	None	n/a
Whistleblowing	None	1	None	None	n/a
Anti-Money Laundering	None	None	None	None	n/a
Covert Surveillance	None	None	None	None	n/a
Information Security	None	None	None	None	n/a
Data Protection	None	None	None	None	n/a
Acceptable Use	-	-	None	None	n/a
Data Retention	-	-	None	None	n/a

- 4.2 The Anti-Fraud and Corruption, Whistleblowing, Anti-Money Laundering, Covert Surveillance, Information Security, Data Protection, 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.
- 4.3 The Committee at its meeting on 7 September 2021 considered and agreed a new Processing of Special Category & Criminal Convictions Personal Data Policy. This was subsequently endorsed by Full Council at its meeting on 20 October 2021 and was included as part of the Council's Policy Framework. This Policy will be reviewed annually going forward as part of the annual review of ethical governance policies.
- 4.4 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 and cyber security training from the Council's IT team.
- 4.5 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.

- 4.6 During the last full financial year, the Council achieved high collection rates for Council Tax despite the impacts of Covid-19, this has continued into 2021/22. Business rates collection has been more significantly impacted, with those not supported through Government grants or relief still struggling to pay. The Council has worked to support those struggling whilst encouraging flexible arrangements to maintain some payments from those businesses most affected. It is anticipated that the ongoing effects of Covid-19 will impact on business rates collection through to 2022/23.
- 4.7 The Council continues to improve processes, making payment options simple for residents and businesses and encouraging customers to contact as soon as possible if they are suffering financial difficulties.

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.

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.

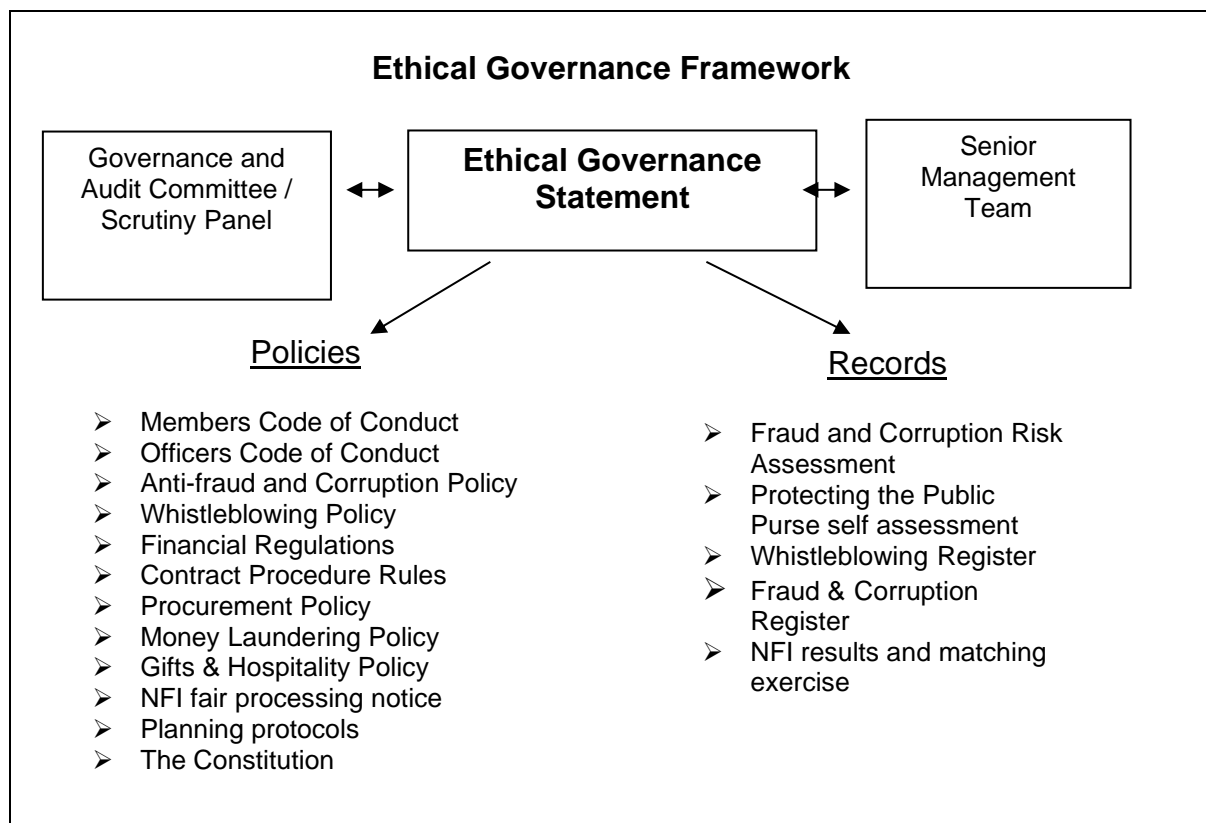
We will take all reasonable steps to ensure that concerns are investigated, and appropriate action taken where necessary. There will be no distinction made in investigation between cases that generate financial benefits and those that do not.



Paul Dundas
Leader of the Council



Adrian Pritchard
Chief Executive



Anti-Fraud and Corruption Policy 2021/22

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

November 2021

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ANTI-FRAUD AND CORRUPTION POLICY

1.0 INTRODUCTION

Colchester Borough Council, like every Local Authority, has a duty to ensure that it safeguards the public money that it is responsible for.

The Council expects the highest standards of conduct and integrity from all that have dealings with it including staff, members, contractors, volunteers and the public. It is committed to the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly and to the highest possible standard of openness and accountability so as to protect public safety and public money.

All suspicions or concerns of fraudulent or corrupt practise will be investigated. There will be no distinction made in investigation and action between cases that generate financial benefits and those that do not. Any investigations will not compromise the Council's commitment to Equal Opportunities or the requirements of the Human Rights Act or any other relevant statutory provision.

This policy has been created with due regard to the CIPFA better Governance Forum's Red Book 2 'Managing the Risk of Fraud', the CIPFA 2014 Code of Practice on Managing the Risk of Fraud and Corruption and the Audit Commission publication 'Protecting the Public Purse'.

2.0 OVERVIEW

This policy provides an overview of the measures designed to combat any attempted fraudulent or corrupt act. For ease of understanding it is separated into four areas as below:

- Culture
- Responsibilities and Prevention
- Detection and Investigation
- Awareness and Monitoring.

Fraud and corruption are defined as:

Fraud – “the intentional distortion of financial statements or other records by persons internal or external to the Council, which is carried out to conceal the misappropriation of assets or otherwise for gain”.

In addition, fraud can also be defined as “the intentional distortion of financial statements or other records by persons internal or external to the authority, which is carried out to mislead or misrepresent”.

Corruption – “the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person”.

The Council also abides by the Bribery Act 2010 which covers, amongst other things, the offences of bribing another person, of allowing to be bribed and organisational responsibility. Such offences include:

- The offer, promise or giving of financial or other advantage to another person in return for the person improperly performing a relevant function or activity
- Requesting, agreeing to receive or accepting a financial or other advantage intending that, in consequence a relevant function or activity should be performed improperly.
- Commercial organisation responsibility for a person, associated with the organisation, bribing another person for the purpose of obtaining or retaining business for the organisation.

In addition, this policy also covers “the failure to disclose an interest in order to gain financial or other pecuniary benefit.”

3.0 CULTURE

The prevention/detection of fraud/corruption and the protection of public money are responsibilities of everyone, both internal and external to the organisation. The Council's elected members and employees play an important role in creating and maintaining this culture. They are positively encouraged to raise concerns regarding fraud and corruption, immaterial of seniority, rank or status, in the knowledge that such concerns will, wherever possible, be treated in confidence. The public also has a role to play in this process and should inform the Council if they feel that fraud/corruption may have occurred.

Concerns must be raised when members, employees or the public reasonably believe that one or more of the following has occurred, is in the process of occurring or is likely to occur:

- A criminal offence
- A failure to comply with a statutory or legal obligation
- Improper or unauthorised use of public or other official funds
- A miscarriage of justice
- Maladministration, misconduct or malpractice
- Endangering an individual's health and/or safety
- Damage to the environment
- Deliberate concealment of any of the above.

The Council will ensure that any allegations received in any way, including by anonymous letter or telephone call, will be taken seriously and investigated in an appropriate manner. The Council has a whistle blowing policy that sets out the approach to these types of allegations in more detail.

The Council will deal firmly with those who defraud the Council or who are corrupt, or where there has been financial malpractice. There is, of course, a need to ensure that any investigation process is not misused and, therefore, any abuse (such as employees/members raising malicious allegations) may be dealt with as a disciplinary matter (employees) or through Group procedures (Members).

When fraud or corruption has occurred due to a breakdown in the Council's systems or procedures, Directors will ensure that appropriate improvements in systems of control are implemented in order to prevent a re-occurrence.

4.0 RESPONSIBILITIES AND PREVENTION

4.1 Responsibilities of Elected Members

As elected representatives, all members of the Council have a duty to protect the Council and public money from any acts of fraud and corruption. This is done through existing practice, compliance with the Council's Members' Code of Conduct, the Council's Constitution including Financial Regulations and Standing Orders and relevant legislation. Conduct and ethical matters are specifically brought to the attention of members during induction and include the declaration and registration of interests. Officers advise members of new legislative or procedural requirements.

4.2 Responsibilities of the Monitoring Officer

The Monitoring Officer is responsible for ensuring that all decisions made by the Council are within the law. The Monitoring Officer's key role is to promote and maintain high standards of conduct throughout the Council by developing, enforcing and reporting appropriate governance arrangements including codes of conduct and other standards policies.

All suspected instances of fraud or corruption (apart from benefit claim issues) should be reported to the Monitoring Officer.

4.3 Responsibilities of the Section 151 Officer

The Head of Finance has been designated with the statutory responsibilities of the Finance Director as defined by s151 of the Local Government Act 1972. These responsibilities outline that every local authority in England and Wales should: "make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has the responsibility or the administration of those affairs"

'Proper administration' encompasses all aspects of local authority financial management including:

- Compliance with the statutory requirements for accounting and internal audit;
- Managing the financial affairs of the Council
- The proper exercise of a wide range of delegated powers both formal and informal;
- The recognition of the fiduciary responsibility owed to local tax payers.

Under these statutory responsibilities the Section 151 Officer contributes to the anti-fraud and corruption framework of the Council.

4.4 Responsibilities of the Senior Management Team

Managers at all levels are responsible for the communication and implementation of this policy. They are also responsible for ensuring that their employees are aware of the Council's personnel policies and procedures, the Council's Financial Regulations and Standing Orders and that the requirements of each are being met. Managers are expected to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. Special arrangements may be applied from time to time for example where employees are responsible for cash handling or are in charge of financial systems and systems that generate payments, for example payroll or the Revenues and Benefits computer system. These procedures will be supported by relevant training.

The Council recognises that a key preventative measure in dealing with fraud and corruption is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts and agency staff. The Council's formal recruitment procedure contains appropriate safeguards in the form of written references, the verification of qualifications held and employment history. Disclosure and Barring Service (DBS) checks are undertaken for employees working with or who may have contact with children or vulnerable adults.

4.5 Responsibilities of Employees

Each employee is governed in their work by the Council's Standing Orders and Financial Regulations, and other policies on conduct and IT usage. Included in the Council policies are guidelines on Gifts and Hospitality, and codes of conduct associated with professional and personal conduct and conflict of interest. These are issued to all employees when they join the Council. In addition, employees are responsible for ensuring that they follow any instructions given to them, particularly in relation to the safekeeping of the assets of the Council. Employees are expected always to be aware of the possibility that fraud, corruption and theft may exist in the workplace and be able to share their concerns with management.

4.6 Role of Internal Audit

Internal Audit plays a preventative role in trying to ensure that systems and procedures are in place to prevent and deter fraud and corruption. Internal Audit may be requested to investigate cases of suspected financial irregularity, fraud or corruption, except Benefit Fraud investigations, in accordance with agreed procedures. Within the Financial Regulations in the Constitution, representatives of Internal Audit are empowered to:

- enter at all reasonable times any Council premises or land
- have access to all records, documentation and correspondence relating to any financial and other transactions as considered necessary
- have access to records belonging to third parties such as contractors when required
- require and receive such explanations as are regarded necessary concerning any matter under examination

- require any employee of the Council to account for cash, stores or any other Council property under their control or possession
Internal Audit liaises with management to recommend changes in procedures to reduce risks and prevent losses to the Authority.

4.7 Role of the Benefits Investigation

Any allegations of benefit fraud are to be referred to the Department of Work and Pensions for investigation.

4.8 Role of the Corporate Governance Team

The team consists of various officers whose roles include governance issues and the objective is to promote and embed a governance culture throughout the organisation by implementing policies, reviewing issues, providing training and sharing information.

4.9 Role of the External Auditors

Independent external audit is an essential safeguard of the stewardship of public money. This is currently carried out by BDO UK LLP through specific reviews that are designed to test (amongst other things) the adequacy of the Council's financial systems and arrangements for preventing and detecting fraud and corruption. It is not the external auditors' function to prevent fraud and irregularities, but the integrity of public funds is at all times a matter of general concern. External auditors are always alert to the possibility of fraud and irregularity and will act without undue delay if grounds for suspicion come to their notice. The Council contributes to the bi-annual National Fraud Initiative which is designed to cross-match customers across authorities to highlight areas where there are potential fraudulent claims.

4.10 Role of the Public

This policy, although primarily aimed at those within or associated with the Council, enables concerns raised by the public to be investigated, as appropriate, by the relevant person in a proper manner.

4.11 Conflicts of Interest

Both elected members and employees must ensure that they avoid situations where there is a potential for a conflict of interest. Such situations can arise with externalisation of services, internal tendering, planning and land issues etc. Effective role separation will ensure decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information.

4.12 Official Guidance

In addition to Financial Regulations and Standing Orders, due regard will be had to external and inspectorate recommendations.

The Council is aware of the high degree of external scrutiny of its affairs by a variety of bodies such as Government Inspection bodies, the Local Government and Social Care Ombudsman, HM Customs and Excise and the Inland Revenue. These bodies are important in highlighting any areas where improvements can be made.

5.0 DETECTION AND INVESTIGATION

Internal Audit plays an important role in the detection of fraud and corruption. Included within the audit plans are reviews of system controls including financial controls and specific fraud and corruption tests, spot checks and unannounced visits.

In addition to Internal Audit, there are numerous systems and management controls in place to deter fraud and corruption, but it is often the vigilance of employees and members of the public that aids detection. In some cases, frauds are discovered by chance or “tip-off” and the Council will ensure that such information is properly dealt with within its whistleblowing policy.

Detailed guidance on the investigation process is available separately.

5.1 Disciplinary Action

The Council’s Disciplinary Procedures will be used to facilitate a thorough investigation of any allegations of improper behaviour by employees. Theft, fraud and corruption are serious offences which may constitute gross misconduct against the Council and employees will face disciplinary action if there is evidence that they have been involved in these activities, including Benefit fraud. Disciplinary action will be taken in addition to, or instead of, criminal proceedings depending on the circumstances of each individual case.

Members will face appropriate action under this policy if they are found to have been involved in theft, fraud and corruption against the Council. Action will be taken in addition to, or instead of criminal proceedings, depending on the circumstances of each individual case but in a consistent manner. If the matter is a breach of the Members’ Code of Conduct, then it will be dealt with in accordance with the Arrangements agreed by the Council in accordance with the Localism Act 2011.

5.2 Prosecution

In terms of proceedings the Council will endeavour to take action in relevant cases to deter others from committing offences against the Council.

5.3 Publicity

The Council will optimise the publicity opportunities associated with anti-fraud and corruption activity within the Council. Wherever possible, where the Council has suffered a financial loss action will be taken to pursue the recovery of the loss. All anti-fraud and corruption activities, including the update of this policy, will be publicised.

6.0 AWARENESS AND MONITORING

The Council recognises that the continuing success of this policy and its general credibility will depend in part on the effectiveness of training and awareness for members and employees and will therefore take appropriate action to raise awareness levels.

The Monitoring Officer will provide an annual report to senior management and members outlining investigations undertaken during the year.

This policy and associated procedures will be reviewed at least annually and will be reported to senior management and the Governance and Audit Committee.



Whistleblowing Policy

2021/22

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

November 2021

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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.



Anti-Money Laundering Policy 2021/22

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

November 2021

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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 at andrew.weavers@colchester.gov.uk or on 01206 282213.

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 Council's intranet (COLIN), 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 given directions. 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 the MLRO 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 2021/22

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

November 2021

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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 Home Office Code of Practice on Covert Surveillance and Property Interference ("the Code of Practice") 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 Code of Practice and the Code.

The Investigatory Powers Commissioner's Office has responsibility for oversight of investigatory powers.

<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 Code of Practice. 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 Code of Practice. 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 Code of Practice 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 – i.e. 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 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 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 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 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 Code of Practice
- engagement with the 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 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 Code of Practice are subject to monitoring by the 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 by email at andrew.weavers@colchester.gov.uk or ☎ 01206 282213

Use of Social Media in Investigations Policy and Procedure 2021/22

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

November 2021

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;
 - ensure that there is a lawful basis for processing the personal data
 - 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
 - ensure that whilst data is held it is kept secure at all times
- 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 annually 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.



Data Protection Policy

August 2021



Customer Business Culture

Data Protection Policy

CONTEXT

Colchester Borough Council needs 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. This Data Protection Policy sets out the organisation's commitment and approach to data protection and provides a clear frame of reference for employees to determine the organisation's standards, aims, and ideals in respect of data protection compliance.

The processing of personal data in the United Kingdom is regulated by law. The principle statutory instrument setting out the legal obligations of those handling personal data is the Data Protection Act 2018 (DPA 2018). Other laws inter-relate with the DPA 2018 including, but not limited to, the General Data Protection Regulation (GDPR), the Privacy and Electronic Communications Regulations (2003) and the Freedom of Information Act (2000). These laws are collectively referred to in this Policy as Data Protection Legislation.

POLICY STATEMENT

Colchester Borough Council is committed to compliance with all relevant Data Protection Legislation and will formally delegate appropriate powers and responsibilities to its personnel to ensure that it is fully able to comply with Data Protection Legislation and its own defined standards in the field of data protection and information governance.

The Council will ensure that sufficient and appropriate resources are available to ensure that it meets both its legal obligations in respect of Data Protection Legislation and the standards that it sets through its policies. The Council will ensure that the organisation works within the 6 data protection principles and that it will implement sufficient controls to ensure that it is able to demonstrate compliance with the Data Protection Legislation including the keeping of sufficient records of data processing activities, risk assessments and decisions relating to data processing activities.

The Council will uphold the rights and freedoms of people conferred on them by the Data Protection Legislation. It will ensure that those rights and freedoms are appropriately taken into account in the decisions it takes which may affect people and will ensure that it has sufficient controls in place to assist people who wish to exercise their rights. 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.

This policy applies to all Council activities and operations which involve the processing of personal data. This policy applies to anyone who is engaged to process personal data for or on behalf of the Council including: employees, volunteers, casual and temporary staff, directors and officers, Councillors and third-parties such as sub-contractors and suppliers, and anyone who the Council shares or discloses personal data with/to.

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 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
 - No data collection activities will be undertaken or commissioned without an appropriate privacy notice being provided to the person about whom data are being collected
 - No data collection activities will be undertaken or commissioned without there being a lawful ground for the data processing activities intended to be applied to the personal data
- 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
- It uses reasonable endeavours to maintain data as accurate and up-to-date as possible
- Personal data is retained only for as long as necessary
 - The Council will maintain a data retention schedule setting out approved retention periods
- 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.
- A Data Breach Reporting Procedure is maintained
 - All employees and those with access to personal data are aware of it
 - The Council will log all personal data breaches and will investigate each incident without delay
 - Appropriate remedial action will be taken as soon as possible to isolate and contain the breach, evaluate and minimise its impact, and to recover from the effects of the breach
- Periodic compliance checks are completed to test whether its policies and procedures are being adhered to and to test the effectiveness of control measures
- They strive to foster a culture of data protection by design and by default in all data processing activities

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

DEFINITION OF SPECIAL CATEGORY DATA

The legislation makes a distinction between 'personal data' and 'special category 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.

Special category 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 staff and councillors are fully aware of this policy and of their duties and responsibilities under Data Protection 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.

Everyone will ensure that:

- All data processing operations under their control or sphere of responsibility or commissioned by them are undertaken in compliance with this policy and other relevant data protection policies
- Paper files and other records or documents containing personal and or special category 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 to 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.

The Council reserves the right to contract out data processing activities or operations involving the processing of personal data in the interests of business efficiency and effectiveness. No third-party data processors will be appointed who are unable to provide satisfactory assurances that they will handle personal data in accordance with the Data Protection Legislation. All processors, contractors, consultants, partners 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:

- Ensuring that staff are aware of this policy
- 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 (ICO)
- 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:

- Ensuring appropriate mechanisms are in place to support service delivery and continuity
- 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

This policy applies to Councillors, and all Councillors are made aware of the advice produced by the Information Commissioners Office (ICO).

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.

POLICY REVIEW

The policy will be reviewed on an annual basis and updated as necessary at these reviews.

FURTHER INFORMATION

For further information about Colchester Borough Council's compliance with Data Protection Legislation, please visit www.colchester.gov.uk/privacy or email dpo@colchester.gov.uk.

VERSION CONTROL

Purpose:	To specify how the Council complies with Data Protection Legislation
Status:	Draft
Final date:	
To be reviewed:	August 2022



Acceptable Use Policy

August 2021



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 (CBC) 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, Councillors 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.

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 the requirements of the Council's Password Policy.
- 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 Council.
- 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, unless approved by the Strategic ICT manager.

SECURITY AND LICENSING

- 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 clear view in a vehicle.
- 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 authorised 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.
- All staff must maintain the supported infrastructure setup by filing the documents via Adding Properties or via the Details menu 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.
- Site owners should review the permissions set on their sites at least annually to ensure unauthorised staff do not have access.
- You must ensure that private or personal documents are secured to ensure the security of information.

- Data can be shared with external people/organisations using for example the 'External sharing' SharePoint site. All documents shared must be removed once the need to share has expired. Any special category 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

- 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.

USE OF TEAMS

- Personal data should not be shared via teams messaging. Where possible, work documents should be stored on SharePoint, not Files tab on Teams. Where it is not possible, make sure the permissions for the Files are set appropriately.
- All users should ensure that permissions for documents are set appropriately
- All users should ensure that only permitted participants are added to teams channels
- Care should be taken when screen sharing and/or recording a meeting to make sure that personal data is not disclosed inappropriately. Permission should be sought from all attendees before recording starts.
- Ensure that when making video calls the environment you are calling from and any backgrounds you are using are appropriate for business use.

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.
- Mobile phones should be connected to wi-fi networks where available to prevent excessive use of data and use of the mobile phone to create a hotspot to work from should be used in exceptional circumstances only. Mobile data usage will be monitored and consistent excessive use may lead to suspension of service.
- 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 this 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.

POLICY REVIEW

The policy will be reviewed on an annual basis and updated as necessary at these reviews.

FURTHER INFORMATION

For further information contact ict@colchester.gov.uk

VERSION CONTROL

Purpose:	To specify how the Council maintains security
Status:	Draft
Final date:	
To be reviewed:	August 2022



Information Security Policy

August 2021



Customer Business Culture

Information Security Policy

CONTEXT

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

APPLICATION OF POLICY

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

Colchester Borough Council commits to informing all employees, voluntary workers, agency staff, contractors, Councillors 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.

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.

Technology Delivery 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 not able 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 ICT 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 agencies 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 ICT 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 are adequately documented and are kept up to date so that it matches the state of the system at all times.
- Ensure that a Privacy Impact Assessment (PIA) is completed for the use of any new systems or changes to existing systems

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
- Ensure that a Privacy Impact Assessment (PIA) is completed when data processing changes or before new personal data is collected or processed

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 access may be withdrawn or changed as appropriate
- Ensure that staff are not able to gain unauthorised access to Council ICT 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.

Everyone 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 regulations
- 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 special category 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 Delivery 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 special category 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 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.
- Use of personal devices to access Council systems or data from abroad is not permitted.

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 wi-fi connections, are secured appropriately, following industry standards
- Ensuring that all user accounts are secured by the use of Multi Factor Authentication (MFA)
- 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.

POLICY REVIEW

The policy will be reviewed on an annual basis and updated as necessary at these reviews.

FURTHER INFORMATION

For further information contact ict@colchester.gov.uk

VERSION CONTROL

Purpose:	To specify how the Council maintains information security
Status:	Draft
Final date:	
Review date:	August 2022



Retention Policy

August 2021



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 (FoI) 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 updated.

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
- Appropriate security is maintained
- The movement of personal data is done in a lawful way, both inside and outside the Council, and that suitable safeguards exist.

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 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

Everyone will ensure that:

- Paper files, digital files and other records or documents containing personal and or special category data are kept securely
- Paper files, digital files and other records or documents containing personal and or special category data are destroyed securely
 - Information which could be released under a Freedom of Information (Fol) request – e.g. information that's already publicly available or which wouldn't attract an exemption, cause harm, distress or embarrassment can be disposed of in normal waste bins.
 - Personal data, special category data, confidential information and commercially sensitive data requires secure disposal e.g via confidential waste bins, shredding, destruction of CD etc. ICT can arrange secure disposal of devices such as laptops, phones and removable media.
 - Anyone who is unsure of whether secure disposal is required should contact data.protection@colchester.gov.uk for advice.
- 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.

POLICY REVIEW

The policy will be reviewed on an annual basis and updated as necessary at these reviews.

FURTHER INFORMATION

For further information about Colchester Borough Council's compliance with Data Protection Legislation, please visit www.colchester.gov.uk/privacy or email dpo@colchester.gov.uk.

VERSION CONTROL

Purpose:	To specify how the Council complies with Data Protection Legislation with regard to Data Retention
Status:	Draft
Final date:	
To be reviewed:	August 2022



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

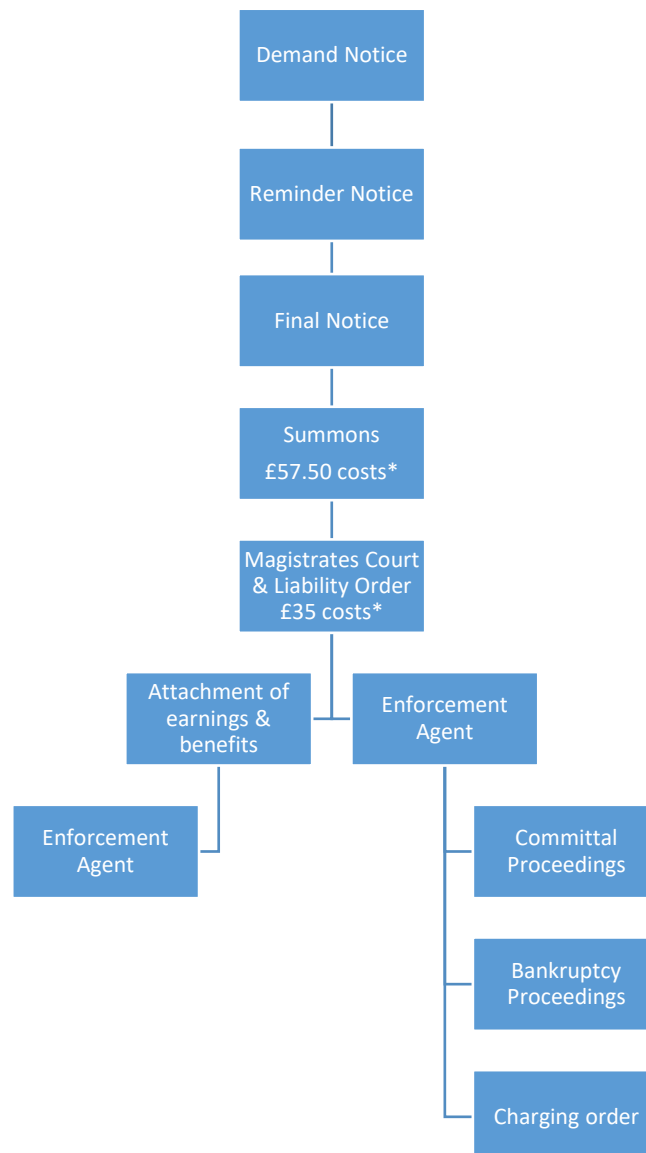
4.3 Services should remove any payment options from promotional materials, bills or other correspondence other than the preferred payment methods. For recurring or regular charges Direct Debit must be promoted as the payment option. For one off charges an upfront debit card internet payment should be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

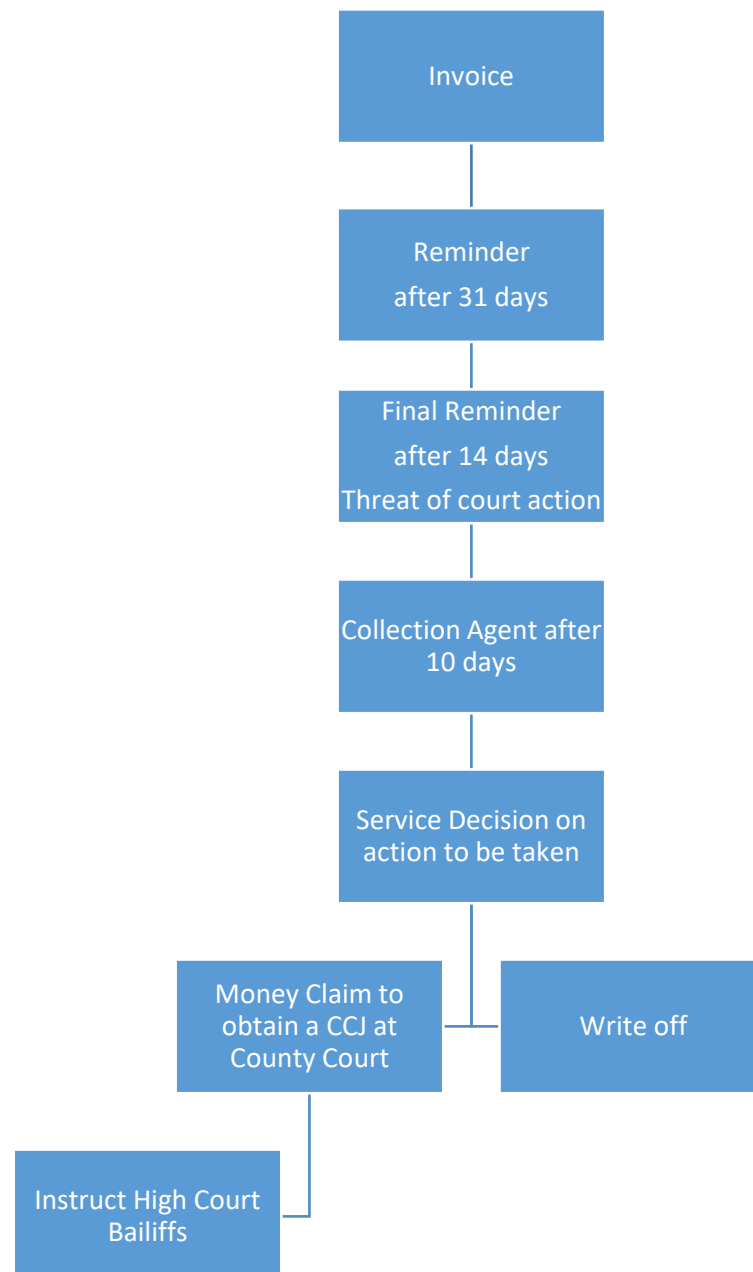
6.1 Council Tax and Business Rates Process



* 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 is recovered as part of the debt. The Council will keep costs to a minimum where possible.

7. Sundry Debt Processes

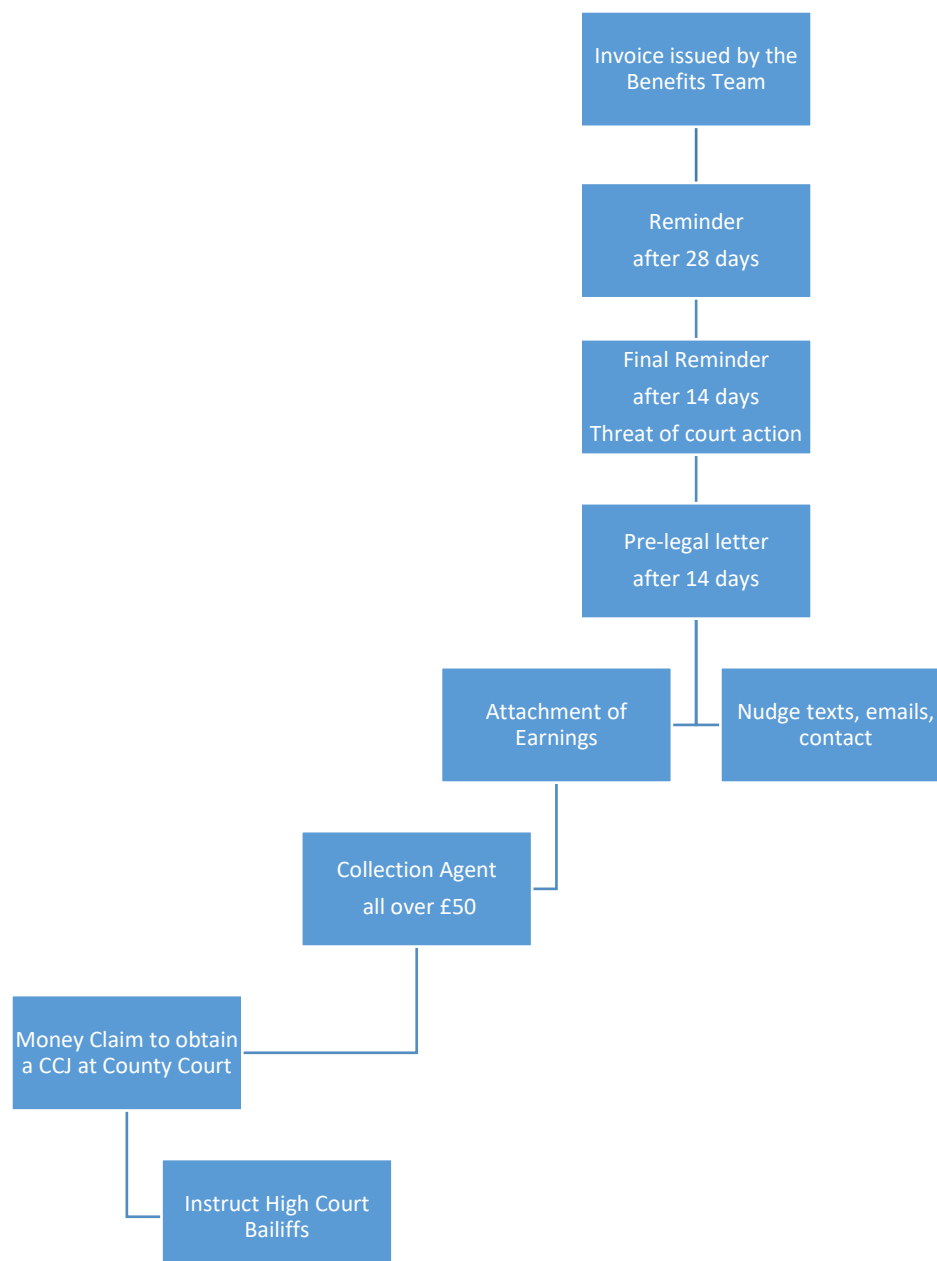
- 7.1 In the cases of sundry debts it is the service or relevant manager who should decide whether enforcement action should be taken. The Income Team will inform services of any debts owing to them and they should respond to say whether each case should then be enforced.



- 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 be 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.

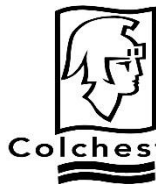
Appendix 2

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.



Governance and Audit Committee

Item
12

23 November 2021

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 2021/22. 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 2021/22.
- 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 April 2016.
- 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. The Committee last considered the Local Code at its meeting on 24 November 2020.

- 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 2021/22. 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 strategic priorities for investment and the covid recovery programme, along with the commitment to continue developing hybrid meeting processes, to enable greater public engagement. 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 2021/22

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

November 2021

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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>The Strategic Plan 2020-23 sets out how the Council will address the key challenges facing the borough through five strategic priority themes. It was approved by full Council in October 2020. In July 2021 the Cabinet agreed the 2021/22 strategic priorities for investment and Covid recovery.</p> <p>The Council's commercial programme, including the set-up of three trading subsidiaries – Amphora Trading, Homes and Energy – within Colchester Commercial (Holdings) Ltd (CCHL) 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, including the 2020/21 'year 1' results and the 2021/22 strategic priorities for investment and Covid recovery.</p> <p>The development of the CCHL/Amphora companies, and the implementation of their high-level goals, financial targets and management agreements. Monitoring includes the CCHL Annual Report 2020/21.</p> <p>Encouraging self-serve and online options to maximise use of resources</p>

	<p>Local Research and Statistics data on website.</p> <p>The Constitution and its committees and panels.</p> <p>Core values of 'customer, business and culture' with identified attitudes and behaviours</p> <p>Key Performance Indicators (KPIs) reported and published to show achievements against targets</p> <p>The Council's strategies and policies.</p> <p>Awards and accreditations - council-wide and individual services.</p> <p>Publication Scheme/Transparency Code.</p> <p>The 'Service Futures' programme which took a fundamental review of Council services and how they are delivered.</p>	<p>Council's Research and Change Team review customer demand and feedback, statistics and research to support business improvement.</p> <p>Council website – continuing its development to support the Council's vision and objectives, including focus on online self-serve options.</p> <p>Digital Access Team – external funding secured to help customers get online so they can access self-serve options and information to support themselves and the digital opportunities available if customers use the web.</p>
1.1.2 Review on a regular basis the Council's vision for the local area and its impact on the authority's governance arrangements	<p>Strategic Plan and its Action Plan.</p> <p>The Constitution and its committees and panels.</p> <p>Medium Term Financial Strategy and Capital Programme.</p> <p>Local Code of Corporate Governance.</p> <p>Annual Governance Statement and Assurance Framework.</p> <p>Risk Register.</p>	<p>Development and monitoring of actions to support delivery of the Strategic Plan 2020-23, including the 2020/21 'year 1' results and the 2021/22 strategic priorities for investment and Covid recovery.</p> <p>Local Code of Corporate Governance updated as required by CIPFA Guidance</p> <p>Terms of Reference of the Policy Panel reviewed and changed to ensure the Panel considers issues at the request of Cabinet and Portfolio Holders and must seek approval from Cabinet on whether</p>

		and how issues proactively identified by the Panel are examined.
In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
1.1.3 Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all parties	Strategic Plan 2020-23 Partners were key contributors in the Peer Challenge Partnership Strategy Council praised by All-Party Parliamentary Group Inquiry into partnership working Safer Colchester Partnership – annual plan, website, strategic and operational groups Working with a range of partners to provide customer-facing services.	Colchester Ambassadors – key borough businesses and their promotional work. Crime and Disorder Committee examines the work of the Safer Colchester Partnership.
1.1.4 Publish an annual report on a timely basis to communicate the authority's activities and achievements, its financial position and performance	Strategic Plan actions and monitoring of delivery Statement of Accounts Council's website www.colchester.gov.uk Awards and accreditations, Performance and Improvement sections of the website Performance Management Board ICT, Communication and Technology Strategy The Council's Forward Plan Publication Scheme/Transparency Code All Annual Reports into one place on the website for improved transparency and open access. An online ' Council data ' library gives access to view and download a range of council databases, performance data and information	
1.2.1 Decide how the quality of service for users is to be measured and make sure that	Performance reporting to Senior Management , Scrutiny Panel and Cabinet	Research and Change Team review customer demand and feedback,

<p>the information needed to review service quality effectively and regularly is available</p>	<p>Consultation – “Consultations, Research and Statistics” section on website Mosaic and other customer research tools Annual Monitoring Report External Audit annual audit letter and recommendations Local Government and Social Care Ombudsman – Annual Review Letter Review of Complaints Procedure</p>	<p>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><u>‘Help us get it right’</u> options for customers</p>
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In order to achieve our aims we have/will:	Source documents/processes	Further work ongoing
<p>1.2.2 Put in place effective arrangements to identify and deal with failure in service delivery</p>	<p>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, Committees and Panels Risk Management Strategy Ethical Governance Policies Annual Governance Statement Action Plan Review of Complaints Procedure</p>	<p>Performance Management Board addresses and manages performance and financial issues and meets monthly. Preparation for Budget Group is also managed here.</p> <p><u>'Help us get it right'</u> options for customers</p>
<p>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.</p>	<p>Performance Reporting Performance Management Board Environmental Sustainability Strategy/Actions External Auditor's annual audit letter and recommendations Statement of Accounts Annual Treasury Strategy Statement North Essex Parking Partnership annual report Report templates – financial considerations Monitoring of commercial performance Publication Scheme/Transparency Code Sustainability assessments for Local Plan</p>	<p>Building a sustainable commercial services arm for the Council – CCHL/Amphora trading companies.</p> <p>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.</p>

		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	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
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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 'Council data' online resource	
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 Protocol 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
	Member and Officer Codes of Conduct	

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

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing

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

PRINCIPLE FOUR

Core Principle 4 – Taking informed and transparent decisions which are subject to effective scrutiny and managing risk

Our aims in taking informed and transparent decisions which are subject to effective scrutiny and managing risk are to:

- 4.1 Being rigorous and transparent about how decisions are taken and listening and acting on the outcomes of constructive scrutiny
- 4.2 Having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs
- 4.3 Ensuring that an effective risk management system is in place
- 4.4 Using their legal powers to the full benefit of the citizens and communities in their areas

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.1.1. Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the organisation's performance overall and of any organisation for which it is responsible	Scrutiny is supported by robust evidence and data analysis Agenda and Minutes Scrutiny Panel Work programme Successful outcome of reviews Ownership of work programme Training for scrutiny chairman and members Scrutiny of partners and joint projects	Scrutiny Panel work programme includes review of partnership arrangements, with presentations from partners at Scrutiny Specialised training provided to Scrutiny members
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, Committees and Panels Decision making protocols Record of decisions and supporting materials Report template Decision list published (members) Live streaming of meetings via YouTube Website	In person decision making meetings have been restored. Many meetings have been live streamed through YouTube leading to greater public engagement.

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.1.3 Put in place arrangements to safeguard members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice	Member and Officer Codes of Conduct Member and Officer Registers of Interests Declaration of Interests at meetings Code of Conduct guidance and training provided to Members and Officers Planning Procedures Code of Practice Governance and Audit Committee (responsibility) and Monitoring Officer (reports) Politically restricted posts Ethical Governance Policies, and annual review Secondary Employment Policy	
4.1.4 Develop and maintain an effective Audit Committee (or equivalent) which is independent or make other appropriate arrangements for the discharge of the functions of such a committee	Audit issues within remit of Governance and Audit Committee Member Development Programme Agenda and Minutes The Constitution	Continue to review Member training programme with specific reference to audit and governance
4.1.5 Put in place effective transparent and accessible arrangements for dealing with complaints	Complaints procedure " Help us get it right " on website with full details Annual letter from Local Government and Social Care Ombudsman Customer insight work Social media Review of Complaints Procedure	
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	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

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 Member briefing on risk management Integrating operational, strategic and project risks into the risk reporting process to senior management
	Publication Scheme and Transparency Code 'Council data' online resource	the environmental and sustainability implications of the decision.

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.4.1 Actively recognise the limits of lawful activity placed on them by, for example the ultra vires doctrine but also strive to utilise powers to the full benefit of their communities	Constitution Monitoring Officer Report templates Equality Impact Assessments Equality Objectives	
4.4.2 Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on local authorities by public law	Availability of professional legal advice Knowledge of current and forthcoming legislation and regulations Monitoring Officer Protocol S151 Officer Protocol Report templates Constitution Equality Impact Assessments Equality Objectives Training and Policy updates	Business Partners for 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 'Council data' online resource	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. External assessment for the reaccreditation of Member Charter Status is booked for the first quarter of 2022.
5.1.2 Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that	Appraisals and regular 1 to 1 sessions Personal Development Plans Training and development	

these roles are properly understood throughout the organisation	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. External assessment for the reaccreditation of Member Charter Status is booked for the first quarter of 2022.
5.2.2 Develop skills on a continuing basis to improve performance including the ability to scrutinise and challenge and to recognise when outside expert advice is needed	Performance reviews for officers Personal Development Plans for officers Member training and development Member scrutiny training People Strategy Colchester Learning Managers Vine HR and East of England Local Government Association – meetings, best practice and briefings	Member skills development Learning and Development – commercial and Office365 skills Specialised training provided to Scrutiny members.

	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	External assessment for the reaccreditation of Member Charter Status is scheduled for the first quarter of 2022.
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 and Social Care Ombudsman Annual Letter	External assessment for the reaccreditation of Member Charter Status is scheduled for the first quarter of 2022.

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 Research and Change Team projects Have Your Say! processes	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>Appointment of Independent Persons</p> <p>Audio streaming of Council meetings</p> <p>The adoption of on-line committee meetings, during the pandemic, enabled greater participation from all sections of the community. The viewing figures demonstrate greater public participation than the previous audio recordings. A public consultation provided responses that demonstrated overwhelming support for on-line meetings.</p>	<p>Although the temporary legislation for on-line formal meetings was not extended beyond May 2021, all opportunities will be taken to lobby for a change in legislation to allow decision making to take place in a virtual environment.</p> <p>Non-formal meetings continue to be held virtually, where appropriate.</p> <p>Further development of the technology required to enable fully interactive hybrid meetings in the future.</p>
5.3.2 Ensure that career structures are in place for Members and Officers to encourage participation and development	<p>People Strategy</p> <p>Internal Recruitment Process</p> <p>Internal Secondments</p> <p>Personal Development Plans for officers</p> <p>Personal Development Plans for members</p> <p>Talent Management/Career Track for staff</p> <p>Future Leader Programme</p> <p>Member skills development</p> <p>Staff structure charts</p>	<p>Staff Recognition Scheme – first virtual annual celebration events held September 2020 and November 2021.</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 'Council data' resource 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 'Council data' online resource	Ongoing review of Freedom of Information requests to see if there are items which could be put onto the website or 'Council data', 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 agreed by Full Council	
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 'Council data', 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	In person decision making meetings have been restored. Many 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 'Council data', Freedom of Information and Data Protection section of the website National Fraud Initiative - Fair Processing Notice 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