



Essex County Council

## Summons

To all Members of Essex County Council

You are hereby summoned to attend the meeting of the County Council to be held as shown below to deal with the business set out in the Agenda.

<b>10:00</b>	<b>Tuesday, 12 December 2023</b>	<b>Council Chamber, County Hall, Chelmsford, CM1 1QH</b>
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**Gavin Jones**  
Chief Executive

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**Officer Support to the Council:**

Sophie Campion, Senior Democratic Services Officer

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**Prayers** The meeting will be preceded by Prayers led by Reverend Zena Smith, Minister at the Benfleet Methodist Church.

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<b>2</b>	<b>Declarations of Interest</b>	
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## **Essex County Council and Committees Information**

All Council and Committee Meetings are held in public unless the business is exempt in accordance with the requirements of the Local Government Act 1972. If there is exempted business, it will be clearly marked as an Exempt Item on the agenda and members of the public and any representatives of the media will be asked to leave the meeting room for that item.

The agenda is available on the [Essex County Council website](#) and by then following the links from [Running the Council](#) or you can go directly to the [Meetings Calendar](#) to see what is happening this month.

### **Attendance at meetings**

Most meetings are held at County Hall, Chelmsford, CM1 1LX. [A map and directions to County Hall can be found on our website.](#)

### **Access to the meeting and reasonable adjustments**

County Hall is accessible via ramped access to the building for people with physical disabilities. The Council Chamber and Committee Rooms are accessible by lift and are located on the first and second floors of County Hall.

Induction loop facilities are available in most Meeting Rooms. Specialist headsets are available from Reception.

With sufficient notice, documents can be made available in alternative formats, for further information about this or about the meeting in general please contact the named officer on the agenda pack or email [democratic.services@essex.gov.uk](mailto:democratic.services@essex.gov.uk)

### **Livestreaming of meetings**

In the interests of improving access to the Council's meetings, most meetings will be livestreamed on the [ECC Democracy YouTube Channel](#). Recordings of the meetings once they have finished are also available on the Channel.

## Minutes of the meeting of the Full Council, held in the Council Chamber at County Hall, Chelmsford on Tuesday, 17 October 2023.

**Present:** Chairman: Cllr Jillian Reeves  
Vice-Chairman: Cllr Ray Gooding

Cllr Susan Barker	Cllr Jeff Henry	Cllr Ross Playle
Cllr Kevin Bentley	Cllr Paul Honeywood	Cllr Pat Reid
Cllr Dave Blackwell	Cllr Michael Hoy	Cllr Stephen Robinson
Cllr Lynette Bowers-Flint	Cllr Eddie Johnson	Cllr Peter Schwier
Cllr Malcom Buckley	Cllr John Jowers	Cllr Lee Scordis
Cllr Graham Butland	Cllr Sam Kane	Cllr Lee Scott
Cllr Simon Crow	Cllr David King	Cllr Laureen Shaw
Cllr Jude Deakin	Cllr Dan Land	Cllr Andrew Sheldon
Cllr Mark Durham	Cllr Sue Lissimore	Cllr Chris Siddall
Cllr Beverley Egan	Cllr Derrick Louis	Cllr Mick Skeels
Cllr Jane Fleming	Cllr June Lumley	Cllr Kerry Smith
Cllr Paul Gadd	Cllr Luke Mackenzie	Cllr Clive Souter
Cllr Mike Garnett	Cllr Mike Mackrory	Cllr John Spence
Cllr Alan Goggin	Cllr Bob Massey	Cllr Wendy Stamp
Cllr Marie Goldman	Cllr Peter May	Cllr Mike Steel
Cllr Ian Grundy	Cllr Aidan McGurran	Cllr Mark Stephenson
Cllr Carlo Guglielmi	Cllr Jaymey McIvor	Cllr Mike Steptoe
Cllr Michael Hardware	Cllr Louise McKinlay	Cllr Paul Thorogood
Cllr Dave Harris	Cllr Anthony McQuiggan	Cllr Marshall Vance
Cllr Anthony Hedley	Cllr Dr Richard Moore	Cllr Chris Whitbread
Cllr Ivan Henderson	Cllr James Newport	Cllr Holly Whitbread
	Cllr Mark Platt	

**Not present but attended the meeting online (these members did not vote on any items):**

Cllr Tony Ball                      Cllr Tom Cunningham

### Chairman's Welcome and Introduction

The Chairman informed those present that the meeting would be broadcast live over the internet by way of the ECC Democracy YouTube Channel.

The opening remarks, together with the broadcast of the entire meeting may be found on the [ECC Democracy YouTube Channel](#).

## **Prayers**

The meeting was preceded by prayers led by Reverend Zena Smith, Minister of the Benfleet Methodist Church.

**Councillor Jillian Reeves formally opened the meeting.**

### **1. Apologies for Absence**

Apologies for absence were received on behalf of Cllr Barry Aspinell, Cllr Lewis Barber, Cllr Mark Cory, Cllr Martin Foley, Cllr Chris Pond, Cllr Lesley Wagland and Cllr Andrew Wiles.

### **2. Declarations of Interest**

Members were reminded by the Chairman of the need to declare any interests and to do so immediately or at the start of the consideration of any relevant item of business.

Cllr Ivan Henderson declared an other registrable interest under minute 8 Motions - Motion 3 The Positive Impact of Growing the Essex Economy, due to being a Director of Freeport East Limited.

### **3. Confirmation of the minutes of the meeting of Council held on 11 July 2023**

#### **Resolved:**

That the minutes of the meeting held on 11 July 2023 be approved as a correct record and signed by the Chairman.

### **4. Public Speakers**

There were none.

### **5. Chairman's Announcements and Communications**

#### **Deaths**

#### **Former County Councillor Lillian Greenfield**

The Chairman informed members of the death of former County Councillor Lillian Greenfield.

Lillian was first elected to Essex County Council in 1969 serving the residents of Billericay North until 1997. Lillian served on many committees

during her time at Essex including Health, Education, Highways and Social Services.

The Chairman paid tribute to Lillian and at the Chairman's invitation, members stood in silent remembrance.

### **Ofsted Inspection of Children's Services**

The Chairman informed members that Essex's Children's Services had been rated Outstanding following a recent Ofsted inspection. Inspectors found high standards were in place across the county. They highlighted the innovative, high-quality help and support available. They also praised employees and how children's needs were at the heart of decision making. Leaders were praised for being "outward looking and forward thinking". At the invitation of the Chairman Cllr Beverley Egan, Cabinet Member for Children's Services and Early Years, spoke about the Ofsted inspection.

### **Awards**

The Chairman announced that seven Essex Country Parks had secured Green Flag status for their high standards. The Green Flag awards recognised well managed parks throughout the country. Parks received them for being well maintained, having excellent visitor facilities and meeting the needs of communities. At the invitation of the Chairman Cllr Mark Durham, Cabinet Member for The Arts, Heritage and Culture spoke on this award.

The Chairman informed members that at the CIPR (Chartered Institute of Public Relations) Pride awards (Anglia, Thames & Chiltern), the PR campaign for the Essex Year of Reading won Best Public Sector Campaign (GOLD), Best Arts Culture and Sport Campaign (GOLD) and Best Education Campaign (SILVER). At the invitation of the Chairman, Cllr Tony Ball, Cabinet Member for Education Excellence, Life Long Learning and Employability spoke on these awards.

The Chairman announced that Active Essex's, Essex Pedal Power, had been highly commended at the National Transport Awards. At the invitation of the Chairman, Cllr Laureen Shaw, Deputy to the Cabinet Member for Highways, Infrastructure and Sustainable Transport spoke on this award in the absence of the Cabinet Member.

### **Honours**

The Chairman informed members that 24 Essex residents had received an honour in the King's Birthday Honours for 2023. The residents received them for a variety of services to the community, voluntary services, policing, education, young people, heritage and defence. The Chairman offered congratulations to all the recipients.

## 6. Petitions

The Chairman invited Cllr Jude Deakin to present a petition relating to road speed in Galleywood Road. Cllr Laureen Shaw, Deputy to the Cabinet Member for Highways, Infrastructure and Sustainable Transport, responded to receive the petition in the absence of the Cabinet Member.

The Chairman then invited Cllr Dave Harris to present a petition relating to 20mph and yellow lines outside of a school. Cllr Laureen Shaw, Deputy to the Cabinet Member for Highways, Infrastructure and Sustainable Transport, responded to receive the petition in the absence of the Cabinet Member.

At the invitation of the Chairman, Cllr Dave Harris presented a second petition relating to road resurfacing. Cllr Laureen Shaw, Deputy to the Cabinet Member for Highways, Infrastructure and Sustainable Transport, responded to receive the petition in the absence of the Cabinet Member.

## 7. Executive Statements

At the invitation of the Chairman, Cllr Kevin Bentley, Leader of the Council gave a statement on Devolution and Cabinet Changes, Cllr Tony Ball, Cabinet Member for Education Excellence, Life Long Learning and Employability gave a statement on RAAC and The Chancellor of Essex, gave the Autumn Statement.

*The Executive Statement is published on the ECC website and the broadcast of the meeting may be found on the [ECC Democracy YouTube Channel](#).*

## 8. Motions

### 1. Waste and Recycling

Moved by Cllr Kerry Smith and seconded by Cllr Paul Gadd.

‘Council notes, along with its predecessor some thirty years ago that incineration of waste can be deleterious to human health and that it, plus widespread employment of "energy from waste" installations, can also be bad for the environment, and should be avoided.

Council should seek to work with second tier councils radically to improve recycling rates through making the process as intuitive and easy as possible for residents.

Scrutiny should urgently investigate means of removing methane emissions from landfill sites.

Council calls on the Leader to make representations to the Government to end over-packaging of products and to introduce a bottle deposit scheme.

Council declares that any planning application made relating to waste will be determined in accordance with the development plan unless material considerations indicate otherwise.'

Having been put to the meeting the motion was **lost**.

The following Member requested that their vote be recorded in the minutes:

Cllr Michael Hoy – voted for the motion

## **2. Tackling the Concrete Crisis in Schools and Hospitals**

Moved by Cllr Mike Mackrory and seconded by Cllr James Newport.

'Council notes that:

- i) At the end of August 2023, just days before the new school term was due to begin, the Government announced that more than 150 schools in England, including 60 schools in Essex, needed to address urgently the presence of unstable concrete known as RAAC in their buildings.
- ii) Affected schools, colleges and nurseries were told that they cannot use affected buildings unless safety measures are in place.
- iii) That dealing with the Concrete Crisis will put local authorities and other public sector bodies – already facing severe budgetary pressures – under even more pressure.
- iv) Since a school roof collapsed in 2018 the Government have failed to heed the warnings of organisations such as the Local Government Association that this is a serious problem which needed addressing.
- v) Successive years of Government underfunding in schools has resulted in 24,000 school buildings beyond their estimated initial design life and 700,000 pupils learning in schools which require major rebuilding or refurbishment.

Council believes that:

- vi) It is a national scandal that some children were being taught in crumbling classrooms and some patients are being treated in hospitals with roofs at risk of collapse.
- vii) This Government's commitment to eradicate RAAC from the NHS estate by 2035 is not soon enough.

Council further notes with concern that:

- viii) It has been reported that when Prime Minister Rishi Sunak was Chancellor of the Exchequer, he rejected requests from Department of Education officials for an extra £900 million a year for school funding in the 2021 Spending Review.

- ix) In the same spending review, he slashed taxes for the banks, choosing big finance over children's safety. The cost of the NHS repairs backlog is more than £10bn, up by a tenth on the previous year.

Council therefore calls on the Government to:

1. Provide urgent clarity over where RAAC has been found in schools, hospitals and other public buildings like courts, police stations, leisure centres, libraries, and public housing in Essex.
2. Urgently set up a national risk register of all public buildings.
3. Publish all advice presented to Rishi Sunak when he was Chancellor of the Exchequer on RAAC in schools and hospitals. Set out additional funding from the Treasury to replace RAAC in affected public buildings without having to sacrifice other essential repairs, and to mitigate the disruption caused to pupils, patients, and other public service users.
4. Launch a Ministerial Taskforce to draw up a road map to ensure replacement work is carried out urgently.'

It was moved by Cllr Mark Durham and seconded by Cllr Andrew Sheldon that the motion be amended to read:

'This Council notes that.

- i) At the end of August 2023, just days before the new school term was due to begin, the Department for Education announced that 60 schools in Essex needed to address urgently the presence of RAAC in their buildings.
- ii) ECC is committed to returning our children and young people to full time face to face learning as soon as possible and has committed its own resources to assist schools to achieve this.
- iii) This is in addition to schools who have used their own resources.

This Council expresses its thanks and gratitude to:

- Officers across all departments of ECC for their excellent response and hard work to the RAAC issue.
- Teachers and their staff, for their response and hard work in what was and is a stressful time for them, children and parents.
- Essex MPs, other Local Authorities, partners and the business community during this time.

This Council welcomes the Government's commitment to fund all "reasonable costs" incurred related to RAAC and calls on it to deliver on this commitment without undue delay.'



The amendment moved by Cllr Mark Durham and seconded by Cllr Andrew Sheldon was put to the meeting and was **carried** and became the substantive motion.

Having been put to the meeting the motion was **carried**.

### **3. The Positive Impact of Growing the Essex Economy**

Moved by Cllr Alan Goggin and seconded by Cllr Carlo Guglielmi

‘There is a strong evidence base that shows employment is good for physical and mental health and well-being.

This Council therefore welcomes:

- The news that the UK’s economy has grown faster than both France and Germany since the pre-covid period and this is also reflected in positive economic indicators for Essex.
- The growth in Gross Value Added (GVA) of the Essex economy by £2.3billion since 2010 and acknowledges the potential for further opportunity via our targeted Levelling Up programme and a Greater Essex devolution deal.

Building on this positive success to date, the Council is committed to targeting support for economic growth, recognising that there will always be more that can be done to deliver the tools and opportunities for people to move into well-paid employment, which is the best pathway to a good life. This Council therefore calls upon the Government to:

- Be bold and forward looking in discussions regarding the levers for sustainable economic growth across Essex.
- Work with ECC to develop and promote the recently announced, Advanced British Standard, which will bring together A-levels and T-levels.’

Having been put to the meeting the motion was **carried**.

### **9. Council Issues**

At the invitation of the Chairman, Cllr Kevin Bentley presented the report. The Chairman put the recommendations to the meeting as two separate votes. The dates of forthcoming Council meetings and review of the Constitution were put to the vote first. It having been moved by Cllr Kevin Bentley and seconded by Cllr Louise McKinlay it was

**Resolved:**

## **1. Dates of forthcoming Council meetings**

- (1) That the dates of Council meetings scheduled for Tuesday 12 December 2023 and Tuesday 13 February 2024 remain unchanged.
- (2) That future Council meetings be scheduled on Tuesday 14 May 2024, Tuesday 9 July 2024, Tuesday 15 October 2024, Tuesday 10 December 2024 and Thursday 13 February 2025.

## **2. Review of the Constitution**

Adopt the revised constitution in the form circulated to members and placed on the Council website with the exception of part 25 (protocol for member and officer relations) which remains unchanged and that the revised constitution takes effect on Wednesday 18 October 2023.

The Chairman then put the recommendations relating to a change to the Pay Policy Statement to the vote. It having been moved by Cllr Kevin Bentley and seconded by Cllr Louise McKinlay it was

### **Resolved:**

That the Pay Policy Statement for 2023/24 be amended with immediate effect as follows:

Replace:

‘The pay of Chief Officers does not currently include a performance related element. Any change to this would result in a change to the pay policy statement’

with:

‘The pay of Chief Officers does not routinely include a performance related element, but, exceptionally, one off payments may be authorised by the Senior Management Employment Committee, every such payment being the subject of individual authorisation by the Committee.’

## **10. Cabinet Issues**

At the invitation of the Chairman, Cllr Kevin Bentley presented the report and it having been moved by Cllr Kevin Bentley and seconded by Cllr Louise McKinlay it was

### **Resolved:**

To receive the list of urgent decisions taken and the minutes of the Cabinet meetings held on 18 July and 12 September 2023.

**11. Oral Questions of the Leader, Cabinet Member, chairman of a committee or the representative of the Essex Police, Fire and Crime Panel.**

*The oral questions and answers as part of the broadcast of the meeting may be found on the [ECC Democracy YouTube Channel](#).*

The questions asked were:

<b>Question asked by:</b>	<b>Question asked to:</b>	<b>Subject of the question</b>
Cllr Dave Harris	Cabinet Member for The Arts, Heritage and Culture	Vacancies in the youth service
Cllr Dave Harris	Cabinet Member for Education Excellence, Life Long Learning and Employability	Risks to school crossing patrollers
Cllr Malcolm Buckley	Leader of the Council	Delays to external audit of local authorities
Cllr Mike Mackrory	Cabinet Member for Planning for a Growing Economy	Changes to rules on Nationally Significant Infrastructure Projects.
Cllr Mike Mackrory	Deputy to the Cabinet Member for Highways, Infrastructure and Sustainable Transport	20mph zones.
Cllr Pat Reid	Deputy to the Cabinet Member for Highways, Infrastructure and Sustainable Transport	Delays to streetlight repairs.
Cllr Aidan McGurran	Leader of the Council	Investment to highways
Cllr Ivan Henderson	Deputy to the Cabinet Member for Highways, Infrastructure and Sustainable Transport	Delays to streetlight repairs in Harwich
Cllr Ivan Henderson	Deputy to the Cabinet Member for Highways, Infrastructure and Sustainable Transport	Footways obstructed by vegetation
Cllr Paul Thorogood	Deputy Leader and Cabinet Member for Levelling up and the Economy	Local grant funds
Cllr Paul Thorogood	Climate Czar and Cabinet Member for the Environment, Waste Reduction and Recycling.	Disposal of waste to incineration.
Cllr Lee Scordis	Deputy to the Cabinet Member for Highways, Infrastructure and Sustainable Transport	Cutting back vegetation on public rights of way.
Cllr Wendy Stamp	Deputy to the Cabinet Member for Highways, Infrastructure and Sustainable Transport	Cleaning of highway drains in Maldon

Question asked by:	Question asked to:	Subject of the question
Cllr Stephen Robinson	Deputy to the Cabinet Member for Highways, Infrastructure and Sustainable Transport	Overgrown hedges

## 12. Closure of Meeting

The meeting closed at 1:32pm.

A recording of the meeting is available as [a video on YouTube](#).

**Chairman**

# Motions

Members have given notice that they intend to move the following motions in accordance with paragraph 16.8.2 of the Constitution:

The Courts have made it clear that the Public Sector Equality Duty applies to the Council when it is considering these motions, even if they are motions without legal effect. There is not a general requirement for an equality impact assessment but regard should be had to the equality duty when drafting and considering motions.

The equality duty requires Council to have due regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes it unlawful to discriminate etc on the grounds of a protected characteristic.
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

## 1. Reducing speed limits on residential roads

Moved by Cllr Dave Harris and seconded by Cllr Lee Scordis.

'Essex County Council notes that:

More than half of all accident casualties occur on roads with 30mph limits, and a pedestrian is seven times more likely to die if they are hit by a vehicle travelling at 30 mph than they are at 20mph, a figure that rises to ten times more likely if the pedestrian is over the age of 60.

Reducing speed limits on residential roads has been found to significantly reduce air pollution and improve health outcomes.

Over 28 million people now live in local authorities in the UK which have adopted or are adopting a default speed limit of 20mph on residential roads.

Essex County Council therefore resolves to:

- call upon the leader to implement a Council-wide 20mph speed limit on residential roads as soon as is practically possible. Establishing 20mph limits in roads with schools should be treated as a priority. This measure should be comprehensive and cover all residential roads unless there are specific exceptions which would make this inappropriate.
- set up an all-party working group to oversee the implementation of the policy and to seek to advise the executive on roads where the lower speed

limit may not be appropriate and identify if other enforcement measures could be introduced in these areas. The views of residents should be sought to establish what measures would be regarded as most desirable’.

## **2. Adult and Children’s Social Care, Recognition and Reform**

Moved by Cllr Jane Fleming and Seconded by Cllr Jaymey McIvor

‘This council commends all its officers and staff across Adult and Children’s Social Care for their achievements in 2023, as measured by outcomes for our residents, customer satisfaction levels, the Ofsted Report on Children’s Services, and national recognition.

However, This Council recognises that:

- There is always more to do and scope for improvement
- The levels and complexity of demand are increasing
- We must be prepared for the new CQC regime and social care reforms

This Council therefore commits to continuing innovation and calls on all members of the council to work on these initiatives, from scrutinising and challenging whilst understanding the continuing need for change.

This Council also calls on the Government to:

- Confirm the dates for the implementation of previously announced Social Care reforms and to ensure that resources commensurate with this timetable are put in place, in order for the complex planning and development to progress.
- Explore reforms to the privately-owned children’s social care sector, to ensure it provides excellent value for money, whilst maintaining high standards of provision.’

## **3. Central government constriction of local democracy**

Moved by Cllr Paul Gadd and seconded by Cllr Chris Pond.

‘Council notes the requests made by Kent and Hampshire County Councils in November 2022 that Central Government should start to fund councils properly. Council also notes the statements made by those councils that:

*"We have experienced more than 12 years of national austerity and cuts to our core budgets. Inflation continues to grow, along with demand for services such as social care for vulnerable adults and children. We are also constrained by outdated laws created in the 1940s and 1960s and have no autonomy to be able to introduce initiatives for some local services to help generate our own revenue. As a result, our budgets are now at breaking point. We have gone as far as we can to close the budget gaps we have faced to date, and there is nowhere left to go in future without severely impacting some of the most vulnerable people in our society."*

Essex County Council has faced and continues to face the same pressures of greatly reduced Government funding, high inflation, and restrictions on income.

Council notes the statements made by Cllr Whitbread on 8 November 2023 confirming the financial pressures Essex County Council is under.

As well as the issue of reduced Government funding, the extra money we can raise from council tax and business rates is significantly below inflation each year. This is not just a medium-term problem that can be fixed with more one-off handouts to keep the sector limping along, it needs fundamental change.

We have a responsibility to the residents of Essex to do everything possible to protect the future of their vital local services such as the maintenance of our roads and footpaths, the running and maintenance of our schools and libraries as well as adult and children's social care. ECC urges the Government to take steps to address the financial challenges faced by local authorities, and to halt the long-term decline in council service provision.

Therefore, Council supports the requests made by the county councils of Kent and Hampshire to Government to fund local authorities properly.'

**Agenda item 9**  
**Council Issues**

**1. Update of Constitution: Protocol for Member/Officer Relations (part 25)**

- 1.1 The Council approved a revised constitution at its October 2023 meeting. The protocol on Member/Officer relations was not included as it was felt that this required a more substantial re-write.
- 1.2 A revised protocol has been produced, it has been the subject of consultation with the three Statutory Officers and with the Leader of the Council and agreed by the Constitutional Working Group.
- 1.3 It is aimed at making the protocol more reflective of today's operating environment and of experiences of other authorities. It attempts to set the division of roles between Officers and Members and set the tone and expectations of how Members and Officers should behave towards each other and ensure that relationships are harmonious but not too close.
- 1.4 It is fair to say that this protocol is not a well-known part of the constitution and if Council sees fit to agree the changed protocol it is proposed that we seek a Member development session and training for Officers as well as publicity within the Council.

**Recommendation:**

Members are asked to agree the revised protocol for inclusion in the Constitution.



## **[draft] Protocol for Member/Officer Relations**

### **25.1 Introduction**

It is important that there should be a close working relationship between a Cabinet Member and the Chief Executive, Corporate Leadership Team, and Senior Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to give the impression that the relationship may impact upon any Officer's ability to deal impartially with that Member or other Members and party groups.

It is important that dealings between Members and Officers should observe normal standards of courtesy.

This can be summed up as 'friendly, but not friends'.

Members and Officers must not seek to take unfair advantage of their position.

This protocol seeks to set out the standards that the County Council expects Members and Officers to follow. Whilst the Protocol cannot be comprehensive it sets out guidance on some of the key issues that arise in those relationships.

The Protocol reflects the principles underlying the respective Codes of Conduct, which apply to Members and Officers and the Principles of Public Life.

The shared objective of these codes is to enhance and maintain the integrity of local government, therefore demanding very high standards of personal conduct.

### **25.2 Member Conduct**

The principles of public life are set out elsewhere in the constitution and set out the general principles govern the conduct of Members. More detailed rules are set out in the Code of Conduct.

### **25.3 Reports to Cabinet**

In accordance with the Constitution, the Leader of the Council is responsible for the Cabinet agenda and most items submitted to Cabinet will be in the name of the relevant Cabinet Member. However, there will be occasions when the Chief Executive, a Statutory Officer or a member of the Corporate Leadership Team will need to submit a report to Cabinet (for example, by Statutory Officers in the discharge of their legal duties). The named author is fully responsible for the contents of any report submitted in their name.

### **25.4 Decision Making**

Decision making by the Council is regulated by law. Courts are generally concerned to see that a decision is properly made and has been taken:

- by someone who was authorised to make it
- following an appropriate process; and
- taking account of all relevant information

Other than this the courts will normally respect the decision taken by the council as Parliament has given the local authority the right to make the decision. Any failure to follow the above when making a decision could lead to the decision being quashed or in some circumstances an injunction being granted or damages being awarded against the council.

Decisions may only be taken by an individual or group of individuals authorised by the law or the constitution to take a decision. If a decision is taken by the wrong person/body or in the wrong way it may be invalid or vulnerable to being overturned by a court at a later date. Cabinet Members may only take valid decisions by a properly recorded decision after considering a report including legal and financial advice.

The Cabinet, Committees and Council may only take decisions at a properly constituted meeting.

Outside formal decisions, Members may express a view about how a policy may be implemented but Members and Officers must remember that unless a Member has made a formal decision it is Officers who have taken the actual decisions and who are accountable for them.

All Members and Senior Officers must understand the parameters of the authority they exercise and recognise that acting outside those parameters leaves the authority open to legal liability and/or public criticism. For Members, such actions may amount to a breach of the Code of Conduct and for Officers, may lead to disciplinary proceedings.

When Members take decisions, they are accountable for the decisions they make, but Officers are accountable for the information they provide to Members and for the advice upon which the decision is based. Paragraph 25.4.4 deals with Officer advice.

If the Chief Executive and/or the Monitoring Officer consider that a decision is unlawful or in breach of existing Council policy or procedure, they will refer the matter back to the relevant Cabinet Member asking them to reconsider. Ultimately, and in a case of serious disagreement, the Monitoring Officer is under a legal duty to report any likely breach of the law to a meeting of the full Cabinet.

#### **25.4.1 Cabinet Members' role in decision making**

Individually, Cabinet Members may take decisions in accordance with those functions delegated to them, as set out in Part 3 of this Constitution and, with

Officer advice, may express a strategic view as to the implementation of those decisions.

All formal decisions must be properly recorded, noting which Officers have provided advice in the taking of the decision. The decision must then be published unless the decision is exempt for publication for some lawful reason.

Any views expressed by Members should be to an Officer of appropriate seniority and they must not direct junior employees to take a particular approach.

It is the responsibility of the Chief Executive and these Senior Officers to manage the implementation of policy.

Cabinet Members may take decisions on the resourcing of Council services and on the purchase of goods or services provided they are within their delegated authority and in accordance with the budget and policy framework.

The management of such allocated resources and how they will be applied is a matter for the Chief Executive, Corporate Leadership Team members or Senior Officers subject to any policy or budgetary constraints imposed by the Council or Cabinet.

#### **25.4.2 Deputy Cabinet Members etc**

Deputy Cabinet Members or Members who are undertaking project or other work on behalf of Cabinet Members, have no formal decision making power and any formal decision must be made by the Cabinet or Cabinet Member in the usual way. They may ask – but not require - Officers to take certain action, although they should discuss any significant request with the sponsoring Cabinet Member.

#### **25.4.3 Officer Advice**

Formal decisions taken by the Council, by Committees, by the Cabinet or by any Cabinet Member must be based on advice and information provided by Officers. That advice will normally be recorded in writing in a report presented to the decision maker.

A Cabinet Member must always have the advice of the Monitoring Officer and Section 151 Officer when taking decisions.

Members are entitled to decide whether they require additional advice from the relevant service areas in respect of the particular issue to be addressed, provided that they have enough information to take a proper decision. The Cabinet Member must give Officers adequate opportunity to provide them with the advice on the issue prior to them taking the decision.

## **25.5 Chairmen of Committees**

Chairmen of Committees do not have authority to take executive decisions or direct staff, but can expect Officers to work with them in discharging the Committee's business. For example the Chairman may give their views concerning the agenda, actions to be taken in preparing the agenda and action to be taken as a result of Committee decisions. Officers will work with the Chairman to give effect to the Chairman's requirements.

If there is a situation where the Chairman wishes something to be done and an Officer does not feel able to act then the Chairman should raise the matter with the Chief Executive, a Corporate Leadership Team member or Director.

## **25.6 Officers**

Officers are responsible for the management of the Authority and ensuring the implementation of agreed policies.

Where Members give strategic direction in the exercise of their delegated authority, the Officer(s) directed is/are responsible for ensuring the prompt actioning of those instructions and should keep the Member updated as to progress in the carrying out of the necessary work.

Officers should always seek to assist any Members of the Council, but they may not go beyond the bounds of the authority given to them by their Senior Manager.

Officers should be aware of rules governing access to information set out in part 4 of the Constitution and within the operation of those rules, ensure that Members are properly informed about information to which they have a right of access. Officers should not use professional expertise to discourage or intimidate Members from pursuing lines of inquiry.

Officers must comply with the formally expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work.

## **25.7 Members' Influence**

Members who are not acting within their portfolio or on something commissioned by a Cabinet Member may raise issues with Officers and make suggestions in relation to them.

Those Members should not however expect Officers to have to implement suggestions made as individual Members have no decision making power in these circumstances.

Members should not seek to influence Officers below the level of Head of Service.

Members may not ask Officers to change their decision.

## **25.8 Raising Concerns**

Any Member who has a concern about the conduct or performance of an Officer, should tell the Chief Executive, a Corporate Leadership Team member or a Director about their concern. That Officer will decide what action to take. It should be noted, that if the concern relates to a failing in the Officer's performance, the Council's normal processes will be followed and in most cases, it will initially be appropriate for this to be dealt with by means of a discussion between a Senior Manager and the Officer concerned.

If an Officer is concerned about the conduct of a Member, they should report such concern to their Head of Service, the Chief Executive or Monitoring Officer. If an Officer is concerned about another Officer, that concern should be referred to a relevant Senior Manager, not to a Member, in accordance with the terms of the Whistleblowing policy.

## **25.9 Members' role in recruitment**

Matters relating to the creation of a post, the appointment, conditions of service and dismissal of the Chief Executive, a member of the Corporate Leadership Team and any Officer directly reporting to them are matters for the Senior Management Employment Committee, as set out in Article 8 of the Constitution.

Matters relating to the creation of a post, the appointment, conditions of service and dismissal of posts below this level are for the Chief Executive. Members may not be involved in decision making, but they may for certain roles provide advice to the interview panel (N.B. Members will be involved with the appointment of political assistants if the council employs such persons).

Members must respect the fact that Officers act for the Council as a whole and must be politically neutral. The relationship between a Member and an Officer should not be so close as to call into question the Officer's political impartiality.

## **25.10 Officer Advice and Support to Political Groups**

There is statutory recognition for registered political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Officers may properly be called upon to support and contribute to such deliberations by political groups.

The support provided by Officers can take many forms, ranging from a briefing meeting with a Cabinet Member or Chairman or an individual Member (either jointly or individually) prior to a meeting, to a presentation to a group meeting. Whilst in practice such Officer support is likely to be in most demand

from whichever party group is for the time being in control of the Council, such support is available to all registered political groups.

In providing Officer advice to Political groups, Members and Officers shall have regard to the following.

- (i) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. Officers should not normally be present at meetings, or parts of meetings, when matters of party business are to be discussed.
- (ii) Group meetings are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings are not Council decisions and should not be considered as such.
- (iii) Where Officers provide information and advice to a group meeting in relation to a matter of Council business, they will still need to provide all necessary information and advice to the decision maker when a formal decision is taken.
- (iv) The attendance of any Officers at a political group meeting does not confer any status on that meeting – it is still a political group.

Where an Officer attends a political group meeting they should not normally be expected to provide advice unless everyone present is an Officer or Member of the Council. Others are not bound by the Member Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.

Officers must respect the confidentiality of any political group discussions at which they are present and should not relay the content of any such discussion to a Member who is not a member of that political group.

Any particular cases of difficulty or uncertainty relating to Officer advice to party groups should be raised with the Chief Executive who will discuss them with the Leader of the relevant group.

Council resources (e.g. IT facilities, stationery, typing, printing, photocopying, transport, etc.) are provided to Members strictly to assist them in discharging their role as Members of the Council. Resources must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private party purposes or for purposes not directly related to Council business.

## **25.11 Members Access to Information and Council Documents**

Members may approach any Council Service and ask them to provide them with such information, explanation and advice (about the Service's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Service's activities to requests for specific information on behalf of a Constituent. Such approaches should normally be directed to the Head of Service or another Senior Officer of the Service concerned.

The legal right of Members to inspect Council documents is covered partly by statute and partly by the common law 'need to know'. These are summarised in the Access to Information Procedure Rules contained within part 4 of the Constitution (part19).

Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.

Officers should ensure that they keep Members informed in relation to information regarding their division. Members are in many cases the first point of contact in the communities which they represent. It is therefore vital that County Members are informed about significant developments regarding their electoral division, before other groups and always before the press.

## **25.12 Correspondence**

Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of 'blind carbon copies' (bcc) should not be used.

Official letters on behalf of the Council are normally to be sent out under the name of the appropriate Officer, rather than under the name of a Member.

Sometimes it is appropriate for a letter to be sent from a Member (eg representations to a Government Minister or another politician), but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out under the name of the Member.

The Monitoring Officer should be asked for advice on significant letters which may create legal obligations or give rise to a 'legitimate expectation'.

## **25.13 Involvement of Local Members**

Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the areas affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council consults the public on a local issue, the local Members should be notified at the outset.

## **2. Call-in arrangements and Deputy Cabinet Members**

- 2.1 The Constitutional Working Group and Scrutiny Board have reviewed the appointment of Deputy Cabinet Members to Policy and Scrutiny Committees.
- 2.2 They have recommended that we update the Constitution to be clear that no Deputy Cabinet Members should sit on a Policy and Scrutiny Committee when it is considering a call-in regardless of whether the call-in relates to the portfolio covered by the Deputy Cabinet Member.

### **Recommendation:**

Agree to:

- (a) the insertion of a new paragraph 18.16 into the Constitution as follows::

*18.16 No Deputy to a Cabinet Member should attend a meeting of a Policy and Scrutiny Committee as a member of that Committee during consideration of a call-in, regardless of whether the call-in relates to the portfolio covered by the Deputy Cabinet Member.*

- (b) Renumbering the current paragraphs 18.16 - 18.22 as 18.17- 18.23
- (c) Updating cross-references in part 18 of the constitution.



# The Leader's Report of Cabinet Issues

The purpose of this report is

- a) to note that there have been no urgent decisions taken since the last meeting of Council on 17 October 2023; and
- b) to receive the minutes of the Cabinet meetings held on 10 October and 14 November 2023 attached as appendix 1.

## Recommendations

To receive the minutes of the Cabinet meetings held on 10 October and 14 November 2023.

## **Minutes of a meeting of the Cabinet meeting held in the Council Chamber at County Hall, Chelmsford at 10.15am on Tuesday 10 October 2023**

### **Present:**

<b>Councillor</b>	<b>Cabinet Member Responsibility</b>
Cllr Kevin Bentley	Leader of the Council
Cllr Louise McKinlay	Deputy Leader and Cabinet Member for Levelling Up and the Economy
Cllr Tom Cunningham	Planning a Growing Economy
Cllr Mark Durham	The Arts, Heritage and Culture
Cllr Beverley Egan	Children's Services and Early Years
Cllr Peter Schwier	Climate Czar, Environment, Waste Reduction and Recycling
Cllr Lee Scott	Highways Maintenance and Sustainable Transport
Cllr John Spence	Adult Social Care, Health and ICS Integration
Cllr Chris Whitbread	The Chancellor of Essex

Cllrs Ivan Henderson, David King, Bob Massey, Mark Platt, Laureen Shaw and Holly Whitbread were also present. Cllr Chris Pond attended remotely via Zoom.

### **1. Membership, Apologies, Substitutions and Declarations of Interest**

The report of Membership, Apologies and Declarations was received, and the following were noted:

1. Membership of the Cabinet was as set out in the report.
2. Apologies for absence had been received from Cllrs Tony Ball, Cabinet Member for Education Excellence, Lifelong Learning and Mike Mackrory, Leader of the Liberal Democrat Group. Cllr John Spence, Cabinet Member for Adult Social Care, Health and ICS Integration, had sent apologies for late arrival.
3. There were no declarations of interest.

### **2. Minutes: 12 September 2023**

The Minutes of the previous meeting, held on 12 September 2023, were approved as a correct record and signed by the Chairman.

### **3. Questions from the Public**

None.

## **Variation in the Order of Business**

Upon the proposal of the Chairman, consideration of agenda item 4 (New Countywide Independent Advocacy Service) was deferred pending the arrival of Cllr John Spence as Cabinet Member with responsibility for the decision. Consideration of the report is recorded at Minute 5 below.

### **4. New Passenger Transport Services Dynamic Purchasing Framework Agreement (FP/170/06/23)**

Cabinet's approval was sought for the re-procurement of a Passenger Transport Services Dynamic Purchasing System (DPS) for a period of five years with the ability to extend for up to 24 months in single or multiple extensions.

The Cabinet Member for Highways Maintenance and Sustainable Transport responded to questions by Cllrs Ivan Henderson and David King, advising that the DPS would not impact on existing bus partnerships or planned future developments such as bus franchising. He also confirmed that the DigiGo project would continue and that there were no additional risks associated with the involvement of Thurrock Council in the DPS anticipated were this to be progressed.

#### **Resolved:**

1. Agreed to procure a Dynamic Purchasing System (DPS) for Passenger Transport which is used to source Passenger Transport services from 1 January 2024 for period of up to five years with the ability to extend for up to 24 months in single or multiple extensions. This is subject to change over the period of five years to align with the strategic aims of each of the sub-categories.
2. Agreed that the Director, Procurement in consultation with the Monitoring Officer may approve the mechanism in which Thurrock Council can source Education Transport using the ECC Passenger Transport DPS and that this and any associated costs will be subject to a separate decision.

### **5. New Countywide Independent Advocacy Service (FP/195/00/23)**

Cabinet's approval was sought to go out to the market to procure a new countywide Independent Advocacy Service which will deliver both statutory and non-statutory advocacy.

In presenting the report, Cllr John Spence, Cabinet for Adult Social Care, Health and ICS Integration, clarified that the Council had a statutory duty to provide all types of advocacy service, certain of which were individually specified while others were included within a heading of 'General Advocacy'.

The Cabinet Member responded to questions by Cllrs David King and Chris Pond, explaining plans which would allow the service contract to adapt to rising demand. He also explained how the nature of the procurement process would enable the Council to have full confidence in the successful provider and the service being delivered. Finally, the Cabinet Member undertook to share with Members a forthcoming briefing on advertising and publicity arrangements for the new Service.

**Resolved:**

1. Agreed to undertake a competitive procurement process to procure a contract for a lead provider of a countywide Independent Advocacy Service. The procurement will be a single stage process with a high-level evaluation of 70% quality (including 10% social value) and 30% price with a procurement ceiling price of £5.8m based on 100% of predicted demand over the 5-year term of the contract. The contract length will be 5 years with an option to extend for a further two years.
2. Agreed that the contract will be a block contract that will include 100% of overhead costs and marginal costs relating to 80% of predicted demand.
3. Agreed that the Executive Director of Adult Social Care may award the contract following completion of the competitive process.

**6. Outsourcing of Corporate Payroll Service (FP150/06/23)**

Cabinet's approval was sought to procure a contract for provision of a corporate payroll service.

The Chancellor of Essex responded to a question by Cllr David King, commenting on the risks set out in paragraph 3.31 of the report and expressing the view that outsourcing was the correct course of action. He undertook to provide more detailed information outside the meeting if requested.

**Resolved:**

1. Agreed to procure a contract for the provision of a corporate payroll service for the Council for a three-year term commencing in June 2024, with an option to extend for up to a further two years using a single stage open process.
2. Agreed that the anticipated maximum value of the contract to be paid out to the contractor for the original term of the contract (three years) is £2.610m, which included implementation and transition costs of £375,000 as outlined in the financial implications section of report FP/150/06/23 and referred to in Resolution 4 below.

3. Agreed that the procurement will use an evaluation model based on 35% price and 65% quality to be agreed by the Executive Director for People and Transformation in consultation with the Executive Director, Corporate Services.
4. Agreed to drawdown £437,000 from the Transformation Reserve to be used strictly as follows: £62,000 initially to support the procurement, mobilisation and delivery of the new contract and services in 2023/24; and up to a maximum of £300,000 as a contribution to the supplier's transition costs associated with outsourcing along with an anticipated £75,000 for contractor implementation costs. The details of both being determined following receipt of tenders. It is envisaged that this cost of up to £375,000 would fall in 2024/25.
5. Agreed that the Chancellor of Essex and Cabinet Member with Responsibility for Finance be authorised to award the contract to the successful bidder following completion of the procurement process and that no contract will be awarded unless he is satisfied that the benefits outweigh the risks.

## **7. 2023-24 Financial Overview as at the Half Year Stage (FP/036/02/23)**

Cabinet considered a report which set out the forecast financial position of Essex County Council's (ECC) revenue and capital budgets as at the half year stage of the 2023/24 financial year. The report highlighted that, while there was a small forecast over spend of 1.2% against a net revenue budget of £1.1bn, the short to medium term outlook remained incredibly challenging, with demand uncertainty, market pressures, high inflation and interest rates, and cost of living impacts.

The Chancellor of Essex, assisted by the Leader of the Council and the Cabinet Members for Highways Maintenance and Sustainable Transport and Planning a Growing Economy, provided the following information in response to questions by Cllrs Ivan Henderson, David King and Chris Pond.

- The rate of carriageway repairs had increased, and focus was soon due to shift onto roads and footways. The Cabinet Member for Highways Maintenance and Sustainable Transport commented on the challenges inherent in the repair and maintenance of footways, which were in varied ownership, in comparison with roads, which were mainly owned by ECC.
- The Leader of the Council undertook to liaise with Cllr King outside the meeting concerning funding for additional pupil transport costs incurred by schools affected by reinforced autoclaved aerated concrete (RAAC). The Leader, supported by members, extended thanks to everyone, including councillors, officers, parents and schools, who had worked together effectively to address the challenges arising from the change of DfE policy towards management of RAAC.

- Slippage on the A133/A120 Link Road project had occurred due to changes being made to the procurement process aimed at making the scheme more attractive to bidders and designing out risk. Regular progress reports would be provided.
- The Leader of the Council commented on the achievement of overall savings targets through the ongoing transformation programme. Progress was tightly tracked, with regular reports submitted to scrutiny and mitigations sought where planned savings were not achieved. A Financial Overview Board was in place to monitor the current budget and plan accordingly. An initial report on the Transformation Programme was due for submission to a future meeting of the Cabinet.

During discussion, the Leader of the Council and the Cabinet Member for Highways Maintenance and Sustainable Transport, together with Cllrs Ivan Henderson, David King and Chris Pond, expressed thanks to the Finance officer team for their information and briefings concerning the financial position.

In closing, Councillor Lee Scott, referencing his forthcoming move away from his current portfolio, thanked officers for their excellent work and support during his time in office. The Leader of the Council, together with Cllr Chris Pond, expressed their thanks to Cllr Scott.

#### **Resolved:**

1. To draw down funds from reserves as follows:
  - i. **£1.8m** from the Adults Risk Reserve to the Health, Adult Social Care and ICS Integration portfolio relating to certain disability related expenses being an allowable expense when calculating client contribution (section 5.5.viii)
  - ii. **£1.3m** from the Adults Investment Reserve to the Health, Adult Social Care and ICS Integration portfolio relating to various project expenditure which can be found in more detail in section 5 (section 5.5.viii)
  - iii. **£564,000** from the Covid Equalisation Reserve to the Chancellor of Essex RSSS portfolio for staffing pressures on fixed term contracts still being felt within Business Support as a result of the pandemic (section 5.16.ii)
  - iv. **£462,000** from the Childrens Transformation Reserve to the Children's Services and Early Years portfolio relating to fund the Tendring Multi-Disciplinary Team (MDT) (section 5.1.iii)
  - v. **£418,000** from the Covid Equalisation Reserve to the Arts, Heritage & Culture portfolio relating to temporary staffing for Registrars (section 5.10.iii)
  - vi. **£228,000** from the Private Finance Initiatives (PFI) Equalisation Reserves to the Education Excellence, Life Long Learning and Employability portfolio in relation to Debden Park PFI (section 5.4.iii)

- vii. **£186,000** from the Covid Equalisation Reserve to the Education Excellence, Life Long Learning and Employability portfolio due to the loss of tuition fee income caused by Covid resulting in a lower number of enrolments within Adult Community Learning (section 5.4.iii)
- viii. **£157,000** from the Adults Risk Reserve to the Health, Adult Social Care and ICS Integration portfolio to fund costs associated with the increased payments to providers in respect of the subsidy for fuel price increase inflation (section 5.5.viii)
- ix. **£96,000** from the Waste Reserve to the Climate Czar, Environment, Waste Reduction and Recycling portfolio towards the Mechanical and Biological Treatment facility (MBT) ongoing legal costs and other associated costs (section 5.2.iv)
- x. **£74,000** from the Transformation Reserve to the Planning a Growing Economy portfolio relating to the Cabinet Member Action FP/945/01/21 Digital Accessibility Compliance Project – Policy and Funding, previously approved, but has now time lapsed (section 5.9.ii)
- xi. **£55,000** from the Technology and Digitisation Reserve to the Chancellor of Essex RSSS portfolio for audit costs relating to the Corporate Systems Project (section 5.16.ii).

2. To appropriate funds to reserves as follows:

- i. **£7.9m** to the Waste Reserve from the Climate Czar, Environment, Waste Reduction and Recycling portfolio to appropriate unused funds to the reserve for future use (section 5.2.iv)
- ii. **£502,000** to the Waste Reserve from the Climate Czar, Environment, Waste Reduction and Recycling portfolio relating to various Waste projects and for use in 2024/25 (section 5.2.iv)

3. To approve the following adjustments:

- i. Vire **£134,000** within the Climate Czar, Environment, Waste Reduction and **Recycling** portfolio to repurpose funds from the Residual Waste project (FP/066/05/21) for use on the Waste Strategy project (FP/537/10/22) (section 5.2.iv)
- ii. Vire **£4,000** from the General Balance to Other Operating Costs to remove the planned appropriation from Music Services relating to ECC pension fund deficit (section 9.4 and 5.12.iii)
- iii. Transfer **£9m** from the Ambition Fund Reserve to the Reserve for Future Capital Funding to address priority highways issues. This funding was allocated via the Executive statement at Full council in February 2023 (FP/134/05/23) (section 7.8 and 9.2)
- iv. Transfer **£112,000** from the Transformation Reserve to the Reserve for Future Capital Funding towards the refurbishment of Colchester Library (section 9.3)

- v. Transfer **£5.8m** from the Covid Equalisation Reserve to the Waste Reserve to replenish the waste reserve with Covid funding for additional waste tonnages experienced during the pandemic that were originally funded through the Waste reserve (section 9.3).
  - vi. **£6.8m** relating to the Care Workforce Retention Claims Fund, currently approved for draw down via Cabinet Member Action FP/112/05/23, now to be funded from the Market Sustainability and Improvement Fund (new funding announced in July 2023) (section 5.5.vii)
  - vii. Amend the capital budget as shown in Appendices C (i) and C (ii) which allows for capital slippage of **£11.7m** from 2023/24 and **£1.8m** from 2026/27, into 2024/25 **£6.1m**, 2025/26 **£405,000** and 2027/28 **£7.1m**. Capital budget additions of **£25.4m**, capital budget reductions of **£7.8m** and advanced works of **£3.3m**, **£1.1m** from 2024/25, **£2.1m** from 2025/26 and **£87,000** from 2027/18 (see section 7.2).
4. To agree that the Director, Highways and Transportation may issue new task orders or amend current task orders to Ringway Jacobs for the work outlined in section 7.8 of report FP/036/02/23 to a value of £9m.

## 8. **Award of Contracts for the provision of Microsoft Volume Licensing Agreements (FP/148/06/23)**

Cabinet's approval was sought to award a contract to Phoenix Software, a licensing solution provider (LSP), to acquire a licence for use of the Microsoft 365 toolset across the Council.

### **Resolved:**

- 1. Agreed to award a call-off contract to Phoenix Software, with an estimated value of £11.083m (based on current usage), under the Crown Commercial Services (CCS) Technology Products and Associated Services Framework Agreement (RM6068) Lot 3: Software and Associated Services for the Provision of Microsoft Volume Licensing agreements to cover the Council's current and future Microsoft estate for a period of three years, commencing on 1 January 2024 following the group purchasing arrangements run by CCS.
- 2. Agreed to include the award of Unified Support Services from Microsoft in the contract at a total cost of £279,310 with Phoenix Software for a period of 12 months, commencing on 1 January 2024.

## 9. **Decisions taken by or in consultation with Cabinet Members (FP/227/08/23)**

The report was noted.



**10. Date of next meeting**

Noted that the next meeting of the Cabinet would take place at 10.15am on Tuesday 14 November 2023 in the Council Chamber at County Hall, Chelmsford, CM1 1QH.

**11. Urgent business**

None.

**Exclusion of the Press and Public****Resolved:**

That the press and public be excluded from the meeting during consideration of the remaining items of business on the grounds that they involve the likely disclosure of exempt information as specified in paragraph 3 of Schedule 12A of the Local Government Act 1972 – information relating to the financial or business affairs of any particular person).

**12. Confidential Appendix: Award of Contracts for the provision of Microsoft Volume Licencing Agreements (FP/148/06/23)**

The confidential appendix to report FP/148/06/23, to which minute 8, above, refers, was noted.

**13. Urgent Exempt Business**

None.

There being no further business, the meeting closed at 11.10am.

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**Chairman**  
**14 November 2023**

## **Minutes of the Cabinet meeting held in the Council Chamber at County Hall at 10.15am on Tuesday 14 November 2023**

### **Present:**

<b>Councillor</b>	<b>Cabinet Member Responsibility</b>
Cllr Kevin Bentley	Leader of the Council
Cllr Tony Ball	Education Excellence, Lifelong Learning and Employability
Cllr Tom Cunningham	Highways Infrastructure and Sustainable Transport
Cllr Mark Durham	The Arts, Heritage and Culture
Cllr Beverley Egan	Children's Services and Early Years
Cllr Peter Schwier	Climate Czar, Environment, Waste Reduction and Recycling
Cllr Lee Scott	Planning a Growing Economy
Cllr John Spence	Adult Social Care, Health and ICS Integration
Cllr Chris Whitbread	The Chancellor of Essex

Cllrs Susan Barker, Lynette Bowers-Flint, Graham Butland, Alan Goggin, Carlo Guglielmi, Ivan Henderson, Derrick Louis, Mike Mackrory, Bob Massey, Mark Platt, Laureen Shaw, Clive Souter and Holly Whitbread were also present. Cllrs David King and Chris Pond attended remotely via Zoom.

### **1. Membership, Apologies, Substitutions and Declarations of Interest**

The report of Membership, Apologies and Declarations was received, and the following were noted:

1. Membership of the Cabinet was as set out in the report. Two Cabinet Members had exchanged responsibilities since the last meeting, as set out below:
  - Cllr Lee Scott was now Cabinet Member for Planning a Growing Economy.
  - Cllr Tom Cunningham was now Cabinet Member for Highways Infrastructure and Sustainable Transport.
2. Apologies for absence were received from Cllr Louise McKinlay, Deputy Leader and Cabinet Member for Levelling Up and the Economy. Gavin Jones, Chief Executive, had also sent apologies and was represented by Mark Ash, Executive Director, Climate, Environment and Customer.
3. There were no declarations of interest.

### **2. Minutes: 10 October 2023**

The Minutes of the previous meeting, held on 10 October 2023, were approved as a correct record and signed by the Chairman.

### **3. Questions from the Public**

None.

### **4. Extension of Residual Waste Framework Service Orders (FP/258/10/23)**

This report was considered in conjunction with a confidential appendix – minute 13 below refers.

Cabinet's approval was sought for a 12-month extension to existing service orders for the disposal of residual waste that are due to expire on 31 March 2024. The extension is required to ensure ECC complies with its statutory duty to make disposal arrangements for residual waste collected by Borough, City and District Councils and from Recycling Centres in Essex.

The Climate Czar and Cabinet Member for Environment, Waste Reduction and Recycling responded to questions by Cllrs Mike Mackrory, Ivan Henderson and Chris Pond in relation to joint working with neighbouring authorities, the impact on landfill tax on Council finances, the level of confidence in the process and the efforts being made in respect of waste minimisation.

He also undertook to provide a written response to Cllrs Mackrory and Henderson regarding the unsuccessful tender processes in 2022 and 2023.

#### **Resolved:**

Agreed to extend the service orders awarded to Enovert South Limited and Veolia ES (UK) Limited for Lots 1,2 and 3 under the terms of the Residual Waste Framework (0538) for a period of 12 months from 1 April 2024 to 31 March 2025.

### **5. Annual Review of the Live at Home Framework 2023/24 and Pricing Increased for Domiciliary Care (FP/250/09/23)**

Cabinet's approval was sought to increase the rates paid to domiciliary care providers on the Council's Live at Home Framework and for existing packages of domiciliary care purchased outside of this framework. These rate increases were in addition to those of up to 14.6% agreed by the Cabinet in February 2023, and were intended to help secure the workforce needed to develop ECC's longer-term strategy and drive further service improvements.

The Cabinet Member for Adult Social Care, Health and ICS Integration responded to questions by Cllrs Ivan Henderson and Mike Mackrory in respect of the adequacy of levels of government funding and the likelihood of this being increased, the level of confidence held that the Council was

meeting its obligations in providing domiciliary care, whether the increased capacity referenced in the report was within the public or private sector, the relationship between the rates quoted and the payments actually received by care staff, and contingencies should funding not be available in the future.

In response to a question from Cllr Mike Mackrory, he also undertook to ask officers to produce a list of areas currently affected by a lack of provision.

**Resolved:**

1. Agreed to open pricing submissions in the Live at Home Framework which will enable providers currently on the Framework to submit new prices for new care packages from the updated matrices in Appendix A to report FP/250/09/23, which will take effect from 31 March 2024 to 11 August 2023, representing an average of 6.5% increase in the rates.
2. Agreed to uplift existing packages of domiciliary care (excluding night sleep and 24-hour live-in care) with effect from 31 March 2024 so that:
  - (a) Packages provided under the Live at Home Framework are increased by £1.52 per hour, representing an average increase of 6.5%, and
  - (b) Packages not provided under the Live at Home Framework will be uplifted to the new minimum rate of £23.84 per hour if they are currently less than that.
3. Agreed that the Executive Director, Adult Social Care be authorised to agree the contractual changes required to the Live at Home Framework to reflect the outcome of the pricing submissions and the updated pricing matrices referred to in paragraph 2.1 of report FP/250/09/23, provided that the impact on budget remains within the thresholds set out in paragraphs 6.1.2 and 6.1.3 of that report.
4. Agreed that the Director, Procurement in consultation with the Executive Director, Adult Social Care, be authorised to agree:
  - (a) Which districts will be opened to competition to existing providers on the Live at Home Framework to give an opportunity to become a Tier 1 provider; and
  - (b) The Target Supply Areas, where, due to difficulty in sourcing care, existing providers can select a higher rate, provided that the impact on the budget remains within the thresholds set in paragraphs 6.1.2 and 6.1.3 of report FP/250/09/23.

**6. Award of Care Technology Contracts for Adult Social Care (FP/532/10/22)**

Cabinet's approval was sought to award new contracts for provision of a care technology service from a Framework Agreement with Millbrook Healthcare Ltd and Provide Community Interest Company for a period of four years.

The Cabinet Member for Adult Social Care, Health and ICS Integration responded to questions by Cllr David King in respect of how the satisfaction survey had been undertaken, the continuing importance of human contact and the operation of the triage system.

The Cabinet Member also pledged to provide further details in writing to Cllr Mike Mackrory as to how the savings of £24.7m set out in the report had been realised.

**Resolved:**

1. Agreed to award two four-year contracts (with options to extend for a further two years) from a Framework Agreement for Care Technology Services to:
  - Millbrook Healthcare Ltd for £20m.
  - Provide Community Interest Company (CIC) for £12.2m
2. Agreed to fund £32.2m from the existing Adult Social Care revenue budget for Care Technology, with any additional costs (e.g., through additional volume) funded through cost avoidance and benefits realisation.
3. Agreed that the Executive Director, Adult Social Care, be authorised to agree the final terms of the contracts in accordance with the terms of the Framework Agreement and the Procurement Regulations, including the Key Performance Indicators.
4. Agreed that the Executive Director, Adult Social Care, in consultation with the Council's Monitoring Officer, be authorised to agree a novation of the contract with Millbrook Healthcare Limited.

**7. Harlow HiG – decision to award construction contract for Harlow Sustainable Transport Corridor (STC) North to Centre, Harlow and the acquisition of land by agreement land dedication (FP/257/09/23)**

Cabinet's approval was sought to award a construction contract to Bouygues (UK) Limited for construction works for the Harlow North to Centre Sustainable Transport Corridor (STC), and to the acquisition of associated land required for delivery of the project.

The Cabinet Member for Highways Infrastructure and Sustainable Transport responded to questions by Cllr Mike Mackrory with regard to the level of risk

associated in the proposal and in particular how the assessment of risks in relation to inflation had been reconciled within the report.

He also undertook to provide a written response to Cllr Pond giving a breakdown of the anticipated usage of the STC by various modes of transport.

**Resolved:**

1. Agreed that the Director, Highways and Transport, in consultation with the Monitoring Officer, be authorised to award a Construction Contract to Bouygues (UK) Limited for construction works for the Harlow North to Centre Sustainable Travel Corridor, up to the budgeted value in the capital programme, where ECC has the right to construct works on the land and relevant land has been dedicated.
2. Agreed to enter into a conditional agreement with Mantle (Epping) Limited to acquire the land highlighted in Appendix 1 to report FP/257/09/23.
3. Agreed to enter into an agreement to dedicate the land owned by Harlow District Council as shown in Appendix 2 to report FP/257/09/23.
4. Agreed to enter into an agreement with Sainsbury's Supermarkets Ltd to dedicate as a highway the land owned as shown in Appendix 3 to report FP/257/09/23.
5. Agreed to enter into an agreement to enable construction to take place on land owned by Greater Anglia as shown in Appendix 4 to report FP/257/09/23.
6. Agreed to enter into Licence Agreements to allow enabling works to proceed on the land identified in Resolutions 2.2 to 2.5 above, as shown in Appendix 5 of report FP/257/09/23.
7. Agreed that the Director, Highways and Transport (or, if unavailable, the Director for Property, Investment and Delivery or Director for Sustainable Growth) be authorised, in consultation with the Monitoring Officer, to agree the final terms of the Agreements referred to in Resolutions 2.1 to 2.6 above.
8. Agreed to the profiling and financing of the Capital Programme as set out in paragraph 7.1.3 of report FP/257/09/23.

**8. Modernising Passenger Transport (Digitising Public Transport)  
(FP/217/08/23)**

Cabinet's approval was sought to procure a travel planning and Digital Demand Responsive Transport (DDRT) platform to replace the current

TravelEssex app and enable the wider modernisation of passenger transport through improved customer service, network planning and information.

The Cabinet Member for Highways Infrastructure and Sustainable Transport responded to questions by Cllr Ivan Henderson in respect of the need to consider those people who may be subject to digital exclusion, the research undertaken to identify any gaps between bus routes and access to the opportunities presented by increasing skills related to digital connectivity, and the provision of real time information at bus stops.

Questions from Cllr David King in relation to the phasing of the project, the level of engagement obtained from sustainable transport providers and the next steps for Digigo services were also responded to, together with those from Cllrs Chris Pond and Mike Mackrory in connection with the technological support that the Council would provide to the app when operational, and the need for bus operators' websites to be fit for purpose particularly in respect of contact methods and the ability to make complaints.

**Resolved:**

1. Agreed in principle to the overall vision for the modernisation of Passenger Transport in a three-phase approach:
  - **Phase 1 (2024/25 – 2027/28):** Replace current app and enhance travel planning and Digital Demand Responsive Transport (DDRT) functionality to enable a national journey planner and underpin the digitalisation or other flexible transport service within Essex.
  - **Phase 2 (2027/8 – 2029/30):** Widen the digital offering to allow for the digitalisation of Adult Social Care (ASC) and Special Education Needs and Disability (SEND) transport services.
  - **Phase 3 (2029/30 – onwards):** Gradual digitalisation of mainstream home to school transport.
2. Noted that the investment required in phases 2 and 3 are subject to future affordability and further decisions supported by data from a feasibility pilot project and an assessment against the success measure set out in paragraph 3.20 of report FP/217/08/23.
3. Agreed to launch a competitive procurement for a contract for services which will include customisation, configuration of the platform and ongoing maintenance, to replace the TravelEssex app in March 2025, using the restricted procedure.
4. Agreed that the replacement will include a requirement to provide:

- (a) National travel planning and Digital Demand Responsive functionality, which enables the DigiGo service and supports the digitalisation of other similar flexible services.
  - (b) Payment processing services to enable in app and over the phone payments for DDRT services.
- 5. Agreed for the proposed duration of the contract to an initial term of three years with the option to extend for another four years in total using award criteria of 40% price and 60% quality (of which 5% will be for Social Value).
- 6. Agreed that the Executive Director for Climate, Environment and Customer may award the contract for the initial three-year period (2024/25 to 2027/28) provided that:
  - (a) No contract may be awarded if the contract is likely to cost more than £2.31m over three years; and
  - (b) No contract may be awarded unless the Executive Director considers that the outcome represents value for money for taxpayers and passengers.
- 9. **ENCTS reimbursement payments to bus service operators 2024/2025 (FP/168/06/23)**

The Cabinet's approval was sought on matters relating to payments by ECC to bus operators in 2024/25 under the Concessionary Fares scheme.

**Resolved:**

- 1. Agreed that for 2024/25 ECC will keep the same discretionary scheme elements (relating to times of pass availability and companion passes) as for 2023/24.
- 2. Agreed to authorise the publication of a draft reimbursement scheme for concessionary bus fares in 2024/25, based on the 2023/24 DfT Reimbursement Calculator and Guidance on or before 1 December 2023.
- 3. Agreed to authorise the Executive Director for Climate, Environment and Customer, in consultation with the Cabinet Member for Highways, Infrastructure and Sustainable Transport and the Section 151 Officer to negotiate with the operators to see if a scheme with bus operator can be agreed which is in the best interests of Essex Tax Payers, such negotiations to be within the legal and financial parameters set out in Option 2 within report FP/168/06/23) and taking into account (though not necessarily being bound by) any changes made to the DfT guidance and Reimbursement Calculator for 2024/25.



4. Agreed to authorise the Executive Director for Climate, Environment and Customer, in consultation with the Cabinet Member for Highways, Infrastructure and Sustainable Transport, the Chancellor of Essex and the Section 151 Officer to issue the final scheme on or before 1 March 2024 which will either be:
  - (a) A calculator-based scheme, or
  - (b) A scheme which is within the taxpayers' best interests, agreed with operators and within the legal and financial parameters set out within Option 2 of report FP/168/06//23)
5. Agreed that if the negotiations result in a recommended scheme which is not within the financial parameters set out within Option 2 then the decision to issue a final scheme will be made by the Cabinet or the Leader of the Council.

**10. Decisions taken by or in consultation with Cabinet Members (FP/264/10/23)**

The report was noted. In response to a question, the Monitoring Officer clarified that, in accordance with the Council's Constitution, decisions concerning the appointment of a person or persons to a specific role or roles were exempt from call-in.

**11. Date of next meeting**

Noted that the next meeting of the Cabinet would take place at 10.15am on Tuesday 19 December 2023 in the Council Chamber at County Hall, Chelmsford, CM1 1QH.

**12. Urgent business**

None.

**Exclusion of the Press and Public**

**Resolved:**

That the press and public be excluded from the meeting during consideration of the remaining items of business on the grounds that they involve the likely disclosure of exempt information as specified in paragraph 3 of Schedule 12A of the Local Government Act 1972 – information relating to the financial or business affairs of any particular person).

**13. Confidential Appendix: Extension of Residual Waste Framework Orders (FP/258/10/23)**

The confidential appendix to report FP/258/10/23, to which minute 4, above, refers, was noted. The Chancellor Essex clarified that costs associated with Landfill Tax had been included in the figures cited in the final column of the table at paragraph 1.12 of the report.

**14. Urgent Exempt Business**

None.

There being no further business, the meeting closed at 11.25am.

## Essex Climate Action Annual Reports 2021/22 and 2022/2023

Report by Councillor Peter Schwier (Cabinet Member for Environment, Waste Reduction and Recycling / Climate Czar)

Enquiries to Richard Puleston, Director, Policy, email [richard.puleston2@essex.gov.uk](mailto:richard.puleston2@essex.gov.uk)  
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### 1. Purpose of the Report

A motion was passed at Full Council in May 2023 which requested that the Essex Climate Action Annual reports for 2021/22 and 2022/23 are presented to Council in December to provide a formal update to members.

Both these reports are available on the council's website at:

- [2021/22 Report](#)
- [2022/23 Report](#)

ECC has committed, as part of its Climate Action Plan, to track progress to net zero across Essex. We prepare an annual report, which shows the work that is happening across the county to reduce greenhouse gas emissions and to make the county more resilient to climate risks such as flooding, overheating and water scarcity.

In 2020, Essex County Council (ECC) formed the Essex Climate Action Commission. This is a body of people from the community, including councillors from all political groups, academics and local businesses which was formed to advise on how Essex can become a net zero emissions county. In July 2021, the Commission published Net Zero: Making Essex Carbon Neutral which set out over 100 recommendations for organisations, business, communities and residents.

The 2022/23 report is the second Climate Action Annual Report and aims to show progress against the Commission's recommendations right across the county. It includes examples of actions across the county, district, borough and city councils, the NHS, universities and private businesses as well as third sector and local community groups.

### 2. Recommendation

To note the Essex Climate Action Annual reports for 2021/22 and 2022/23.