



Essex County Council

Corporate Policy and Scrutiny Committee

12:30	Thursday, 28 September 2023	Council Chamber County Hall, Chelmsford, CM1 1QH
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For information about the meeting please ask for:

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Pages

Private Pre-Meeting for CPSC Members

Please note that there will be a virtual private pre-meeting for committee members on 27 September at 4pm via Microsoft Teams.

- | | | |
|----------|---|----------------|
| 1 | Membership, Apologies, Substitutions and Declarations of Interest | 4 - 4 |
| 2 | Minutes:27 July
To approve as a correct record the Minutes of the meeting held on 27 July 2023 and to consider the matters arising and further information received. | 5 - 14 |
| 3 | Questions from the Public
A period of up to 15 minutes will be allowed for members of the public to ask questions or make representations on any item on the agenda for this meeting. No statement or question shall be longer than three minutes and speakers will be timed.

If you would like to ask a question at this meeting, please email Democratic Services by 12 noon the day before (Wednesday 27 September 2023). | |
| 4 | Council-owned 'for profit' organisations | 15 - 36 |

5	Local Community Fund (replaced Levelling Up Fund) Update	37 - 38
5a	APPENDIX A - 2023-24 Locality and Local Community Fund Presentation	39 - 61
5b	APPENDIX B - Summary of Local Levelling Up Fund 2022-23	62 - 62
6	Work Programme	63 - 66
7	Date of Next Meeting To note that the next meeting will be held on Tuesday 7 November 2023, in Committee Room 1, County Hall.	
8	Urgent Business To consider any matter which in the opinion of the Chairman should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.	

Exempt Items

(During consideration of these items the meeting is not likely to be open to the press and public)

The following items of business have not been published on the grounds that they involve the likely disclosure of exempt information falling within Part I of Schedule 12A of the Local Government Act 1972. Members are asked to consider whether or not the press and public should be excluded during the consideration of these items. If so it will be necessary for the meeting to pass a formal resolution:

That the press and public are excluded from the meeting during the consideration of the remaining items of business on the grounds that they involve the likely disclosure of exempt information falling within Schedule 12A to the Local Government Act 1972, the specific paragraph(s) of Schedule 12A engaged being set out in the report or appendix relating to that item of business.

9	Urgent Exempt Business To consider in private any other matter which in the opinion of the Chairman should be considered by reason of special circumstances (to be specified) as a matter of urgency.
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Agenda item 1

Committee: Corporate Policy and Scrutiny Committee

Enquiries to: Graham Hughes, Senior Democratic Services Officer

Membership, Apologies, Substitutions and Declarations of Interest

CORPORATE POLICY AND SCRUTINY COMMITTEE (14)

10 Con: 1 Lab: 1 LD: 2 NAG)

Councillor C Pond	Chairman
Councillor L Barber	
Councillor S Crow	
Councillor M Garnett	
Councillor I Henderson	
Councillor S Kane	
Councillor M Mackrory	
Councillor J McIvor	
Councillor A McQuiggan	
Councillor C Souter	
Councillor W Stamp	
Councillor M Steptoe	
Councillor M Vance	

Recommendations:

To note

1. Membership as shown above.
2. Apologies and substitutions.
3. Declarations of interest to be made by Members in accordance with the Members' Code of Conduct

Minutes of the meeting of the Corporate Policy and Scrutiny Committee, held at 10.15am on Thursday, 27 July 2023 in Committee Room 1, County Hall, Chelmsford.

Present:

County Councillors:

Chris Pond (Chairman)
Lewis Barber
Simon Crow
Mike Garnett
Ivan Henderson
Sam Kane
Mike Mackrory (Vice Chairman)
Jaymey McIvor
Anthony McQuiggan
Clive Souter
Mike Steptoe (Vice Chairman)

Councillors joining remotely via Zoom

Alan Goggin (Chairman, Place Services and Economic Growth Policy and Scrutiny Committee)
Marshall Vance

Graham Hughes, Senior Democratic Services Officer, and Gemma Bint, Democratic Services Officer, were also present.

1 Membership, Apologies, Substitutions and Declarations of Interest

The report on Membership, Apologies, Substitutions and Declarations was received and it was noted.

Apologies for absence had been received from Councillors Wendy Stamp and Marshall Vance (Councillor Vance joined the meeting remotely).

2 Minutes

The draft minutes of the meeting held on 25 May 2023 were approved as a true record and signed by the Chairman of the meeting.

3 Questions from the public

There were no questions from the public.

4 2023/24 Financial Overview as at the First Quarter

The Committee considered report CPSC/13/23 comprising the 2023/24 First Quarter Financial report, as presented to Cabinet on 18 July 2023 and a presentation which can be found [\[link\]](#).

The following joined the meeting for the duration of the item:

- Councillor Chris Whitbread, Cabinet Member, Finance, Resources and Corporate Affairs.
- Stephanie Mitchener - Director, Finance
- Adrian Osborne - Head of Strategic Finance & Insight

Key points raised during the introductory presentation and subsequent discussion included:

- (i) Key trends from the last financial year were continuing with inflation remaining high, increasing demand for services, and rising interest rates well in excess of rates over the last 15 years.
- (ii) There was a forecast revenue over spend of **£14.3m** (1.3%), against a net revenue budget of **£1.1bn**.
- (iii) Key drivers behind the First Quarter Revenue budget overspend were Children's Placements with higher costs and higher number of placements than had been anticipated, reablement capacity issues within Adult Social Care requiring additional spot purchasing and a delay in delivery of the organisation wide Staffing Review savings. There was an expectation that only half of the £5m ECC wide savings budgeted relating to staff resource levels would be delivered in the current financial year.
- (iv) £35.5m of savings was planned in 2023/24 with £6.9m currently at risk of non-delivery.
- (v) No immediate material pressures relating specifically to inflation were being reported. However, it was inevitable that there would be some lag between inflation and market pricing. Some reserves were specifically set aside for inflationary risk.
- (vi) There was a Capital Programme under spend of **£10.3m** (3.4%) against a budget of £303m. Slippages/reductions in relation to Essex Housing LLP projects (£25.6m) and Special Schools (£3.1m), M11 Junction 8 (£10m) and Active Travel (£2.7m) were the main contributory factors.
- (vii) Updates on the Matters Arising from the full year provisional Outturn discussion on 25 May 2023 were detailed in the opening presentation and further discussed.
 - There were no reciprocal arrangements in place with other authorities around costs if SEN children were placed in schools in other local authority areas. Essex paid for provision for Essex pupils placed in other LA schools.

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- The 30% increase in EHCP complaints was a national figure. Essex had had a higher rate compared to other authorities, although publication of the latest national data was awaited.
 - The applications for two further SEN schools submitted by the County Council had not been approved by the Department of Education. Members queried the impact of these not going ahead although it was stressed that the SEN Strategy was also encouraging greater inclusion across the mainstream offer where appropriate. The two bids had not been part of the 2023/24 Capital Programme.
 - The increase in Local Bus Grant income and Contract Changes related to funding from a central government Bus Recovery Grant and English National Concessionary Travel Scheme over and above what was budgeted.
 - The Social Care Platform Programme was currently in the process of being re-planned and there was reconsideration of options for recommencing the procurement.
 - Detail was given on some recruitment and retention initiatives to address Adult Social Care and Health staff shortages.
 - The underspend on the Members Locality Fund in 2022/23 had occurred due to a combination of factors including a previous year's underspend being carried over and inflating the budget and not all Councillors claimed their full allocation.
 - Some grant funding for Climate Actions had been applied for jointly with District, Borough and City Councils, to be delivered by the South-East Energy Hub, and this had not gone through ECC accounts as a result. Taking grants awarded to South-East Energy Hub into account, as at July 2023, £92.161m of external funding had been attracted into Essex (£39.983m capital funding and £12.878m revenue funding totalling £52.861m directly to ECC and £39.3m through South East Energy Hub).
- (viii) High interest rates were likely to have more of an impact in the subsequent years rather than the current one, particularly through its impact on contracts. It was likely that one would see a benefit in income for the current year from high interest rates but a delayed adverse impact on borrowing rates in later years.
- (ix) Some members challenged the recurring statements about overspends on children's services and that there always seemed to be more demand than anticipated and queried whether unrealistic budgets were being set for those services. It was

stressed that it did not take many complex care packages unexpectedly coming through to make a significant difference.

- (x) The capital programme slippage for Essex Housing LLP was primarily due to a timing issue with ECC's Annual Budget being set a month before the Essex Housing LLP Annual Delivery Plan was considered by Cabinet.
- (xi) Some members suggested that, with a significant number of adults awaiting some form of intervention from Adult Social Care, proposed savings may need to be further reviewed if they were to have an impact on delivery of front-line services.
- (xii) Reference was made to the importance of an update on youth services being scrutinised at a future meeting of the People and Families Policy and Scrutiny Committee, particularly as it was reported that more contacts were being made and yet there was an underspend in the service partly due to staff vacancies.

Conclusion

It was agreed to provide or consider further the following:

- (i) A breakdown of the spend on repairs at the Clarendon Road property, Watford;
- (ii) Further information on the underspend in the Youth Service due to recruitment, turnover and vacancy challenges.
- (iii) Whether funding from the Bus Recovery Grant could be used for ECC's subsidised bus services.
- (iv) Breakdown on how bus services are funded in Essex.
- (v) In relation to Essex Recharged Support Services, further information to be provided on the Facilities Management contract pressure and overspend due to increased volumes of document storage.
- (vi) There should be a regular update on the capital programme including the parts attributable to Essex Housing LLP.

The contributors were thanked by the Chairman for their attendance and then left the meeting. Thereafter the Chairman proposed a change in the running order of the agenda and to bring forward the item on the recent call-in (agenda item 6) which was agreed.

Call-in withdrawn: FP/178/07/23 - Local Levelling Up Fund: Additional Funding Proposals and Minor Amendments to the Local Community Fund Rules

The Committee considered report CPSC/15/23 comprising the process followed for the call-in of the above proposed decision.

After discussion about some of the issues raised by Cllr McGurran during the call-in process, it was agreed that a future item be scheduled into the Committee's work programme for an update on the governance and operation of the Local Levelling Up Fund [Clerks note: this has now been replaced by the Local Community Fund]. Members were keen to see that the scheme was running smoothly across the County.

Work Programme

The Committee received and noted report CPSC/12/23 comprising the current work programme.

The meeting then adjourned at 11.10am and reconvened at 11.25am.

7. Performance discussion – Quarter 4 2022/23

The Committee considered report CPSC/14/23 which comprised a performance update on objectives and key performance indicators within the Everyone's Essex performance framework and strategy.

The following joined the meeting for the duration of the item:

- Councillor Kevin Bentley, Leader.
- Richard Puleston, Director: Policy
- Duncan Taylor - Business Intelligence Partner

The report provided included the most recent strategic measures, showing outturns from January to March 2023. For most measures, this therefore also represented the end of the year outturns.

Key points raised and noted during the discussion included:

- (i) The Leader wanted to offer good alternatives to car usage such as cycle paths and public transport.
- (ii) Total crime in Essex (including Violent Crime) had reduced since the same time last year. However, it was highlighted by some members that conviction rates for burglary and rape were still poor in Essex and in response it was suggested that the Police Fire and Crime Commissioner may be able to give more context on the extent of crime in Essex.
- (iii) Recent media reports had indicated that district councils would become responsible for housing and supporting some refugees. Some members voiced concern about the adequacy of infrastructure for some of the urgent and temporary accommodation either already in place or being proposed and, also, that the use of local hotels could impact on tourism. The Leader stated that discussions with Government were continuing

and he believed that some additional funding for local councils could be available to help with the cost of supporting refugees.

- (iv) Draft text had been received from the Government in connection with further devolved powers for Essex. Conversations continued with Unitaries and Borough, City and District Councils as to what they also wanted to see in a devolution proposal. The Leader stressed that he specifically wanted to see responsibility for Skills, transport (including control of local franchises and timetabling), and spatial planning to be devolved.
- (v) Any Mayoral model for devolved powers would be for Greater Essex which would be on a par size wise with some of the Combined Authorities already in place. There was currently no scope to redraw any Essex administrative boundaries.
- (vi) The Leader wanted to continue to encourage and facilitate young people having the opportunity to speak to industry and businesses as part of planning their future careers. A Decision was due to be published soon to invest in eight specific careers support interventions in local schools.
- (vii) Whether future savings targets would further impact on the numbers already awaiting intervention from Adult Social Care. It was stressed that savings were specifically being sought from looking at more efficient ways of working and removing unnecessary processes that cost money.

Conclusion

It was agreed the following would be provided and/or investigated further:

- (i) Information available on actual and trajectories for GHG emissions.
- (ii) Information available on road fatalities and consider including a measure/target to reduce road fatalities in future updates.
- (iii) To provide more information on the pace of the retrofit of homes which currently looked off-target.
- (iv) Once a proposed devolution plan and timetable was formulated then it would be brought to the Committee for scrutiny.

8. Urgent Business

No items were raised. The Chairman then closed the meeting at 12.15pm

Chairman

Corporate Policy and Scrutiny – Outstanding Matters Arising as at 28 September 2023: APPENDIX 1

Date	Agenda item	Action	Status
27 July 2023	2023/24 Financial Overview as at the First Quarter	A breakdown of the spend on repairs at the Clarendon Road property, Watford	To be included in next quarterly financial update
		Further information on the underspend in the Youth Service due to recruitment, turnover and vacancy challenges	As above
		Whether funding from the Bus Recovery Grant could be used for ECC's subsidised bus services.	As above
		Breakdown on how bus services are funded in Essex	As above
		Further information to be provided on the Facilities Management contract pressure and overspend due to increased volumes of document storage	As above
		There should be a regular update on the capital programme including the parts attributable to Essex Housing LLP	As above
	Call-in withdrawn: FP/178/07/23 - Local Levelling Up Fund	A future item be scheduled into the Committee's work programme for an update on the governance and operation of the Local Levelling Up Fund now replaced by the Local Community Fund	Completed
	Performance discussion – Quarter 4 2022/23	Information available on actual and trajectories for GHG emissions	Attached - completed
		Information available on road fatalities	As above
		To provide more information on the pace of the retrofit of homes which currently looked off-target	As above
		Once a proposed devolution plan and timetable was formulated then it would be brought to the Committee for scrutiny	To be scheduled
27 April 2023	Procurement update	Procurement rules for ECC's Country Parks would be checked as it was suggested that their cafes and gift shops, for example, could only procure from a single source and were unable to supplement that with procurement opportunities with local businesses.	TBC

Date	Agenda Item	Action	Status
	Procurement update continued..	A check would be made as to whether information was also disseminated through Districts.	TBC
		Consideration be given to establishing a holistic monitoring and mentoring process for unsuccessful tenderers to provide feedback.	TBC
		Learning and collaborative working opportunities from the Strategic Supplier Collaboration Forum should also be shared with the unsuccessful tenderers.	TBC
		A further breakdown be provided on SME spend and trends.	TBC
		Clarification on how the aspiration that by 2050 Essex as whole county would be net zero was defined in terms of procurement and reach and influence.	TBC
23 March 2023	Estates Transformation programme update	(i) the advice and guidance issued to staff around checking their home insurance cover for home working and personal safety. (ii) levels of funding in the ERIF and specifically commentary on how that fund could be used, possibly in conjunction with Essex Housing, to facilitate repurposing some properties.	TBC
		(iii) Update on how the core estate is meeting climate targets.	TBC
		(iv) ECC approach to embodied carbon in its buildings	TBC
13 March 2023	Performance discussion – Quarter 2, 2022-23	Consider a specific update on the 50 most deprived areas in the county and report on what the Levelling Up Programme had changed for those areas.	TBC
8 December 2022	Draft Capital and Treasury Management Strategy	(i) Further information on the value of loans per head of population as an indicator of indebtedness. (ii) A copy of the previous years' Strategy would be circulated with an indication as to the differences compared to the current draft. (iii) Financial training from the council's advisers be considered.	TBC

Corporate Policy and Scrutiny Committee: 27th July 2023

Report presented: Corporate Performance Report (Q4 2022/23)

Report produced by Performance & Business Intelligence (Corporate).

The following questions/queries were made by members:

1. **GHG emissions** – ‘can members see both actuals and trajectories?’
2. **Target of 0 killed on Essex roads** – ‘is that a target that we have published anywhere and are we going to add that in?’
3. **Pace of retrofit** – ‘why have we only got to 93 this quarter?’

Responses from Performance and Business Intelligence:

1. GHG emissions actuals and trajectories:

Actuals and trajectories for GHG are reported in the Organisation Aims Report (known as the OAR); this is the insight source for this report.

This information as well as supporting narrative can be found on the Essex Open Data website:

Climate Intelligence Report: <https://data.essex.gov.uk/dataset/e10rp/climate-intelligence-report>, (specifically noted on page 11), as well as the [Climate Action Plan](#) and [Climate Action Annual Report](#).

This notes the breakdown of Essex GHG by sector.

The measure details the year-on-year reductions required, to monitor the progress against the ambitious ECC target, of making Essex carbon neutral by 2050.

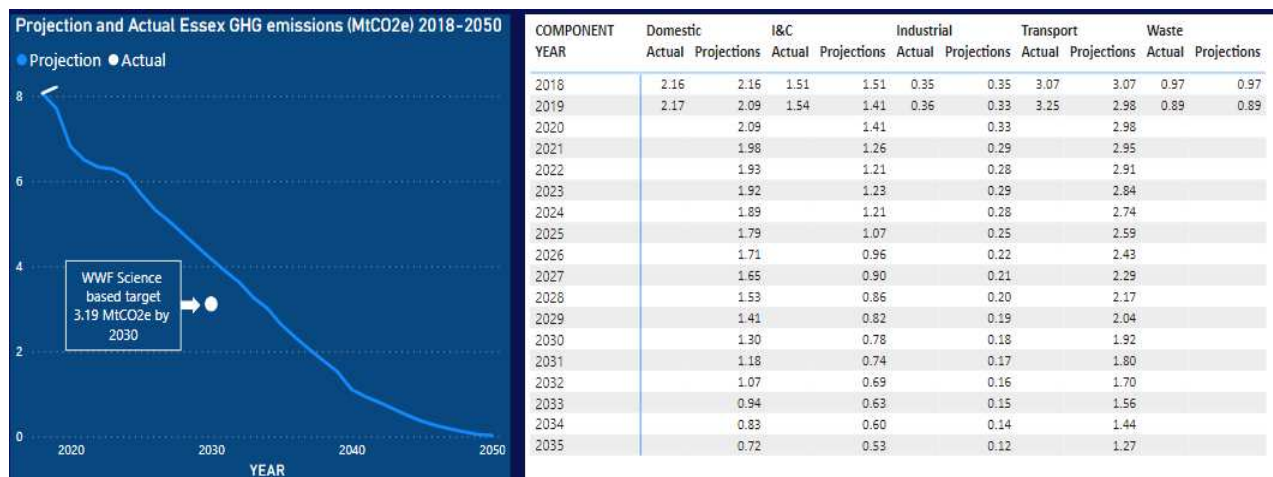
The 2021 Carbon Disclosure Project, recommended that ECC set ‘science-based’ targets, using one of their suggested methodologies.

As a result ECC are using the [WWF's One Planet City Challenge](#) methodology, which is based on the [IPCC's Special Report](#) on Global Warming of 1.5°C.

This method requires a target in-line with a global reduction of 50% against 2018 per capita emissions. For Essex, this calculates as **3.19 MtCO₂e by the year 2030**.

This can be seen on the line graph within the report and is an ambitious target to meet.

The latest data available:



2. Essex roads:

This measure does not feature in the Corporate Performance Report, however information is published on the Safer Essex Road Partnership website: [SERP – Safer Essex Road Partnership \(saferessexroads.org\)](https://saferessexroads.org).

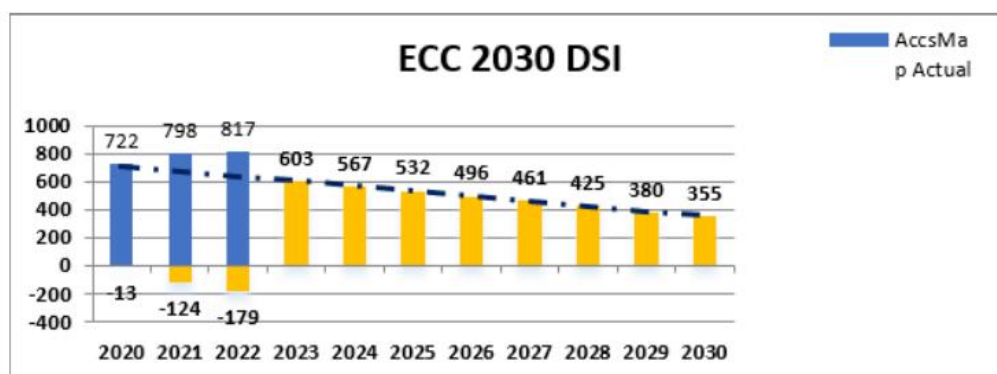
The website, has a breadth of data and insight, that also includes information for UA's Thurrock and Southend-on-Sea and is publicly available.

Essex Highways have a set of contractual KPIs with ECC, to which 'death and serious injuries' is one of those.

There is an aspiration for zero road deaths and serious injuries, this is part of '[Vision Zero](#)', that ECC have embraced as a partner in the Safer Essex Road Partnership.

ECC has a target of a **50% reduction by 2030 from 2020** (the expected figure as shown).

Graph showing performance against target for death and serious injury reduction in Essex



- Link to the SERP strategy containing elements it will support and encourage the highway authority to achieve. https://saferessexroads.org/downloads/Full-VisionZero_Strategy-FINAL.pdf

3. Pace of retrofit:

These retrofit projects are heavily reliant on external funding, retrofit activity is occurring, but not solely by ECC; meaning ECC are not the sole contributor for this measure's achievement.

As noted, this measure is currently off target, and this is due to do several reasons such as contractor and/or supplier issues, which can cause delays in the completion of retrofit projects.

The Sustainable Housing Decarbonisation Fund (SHDF) completed **93** properties by the end of Quarter 4, against a predicted target of 547; however, we have seen in Q1 **246** has been completed. This measure as well as other supporting narrative is also reported and regularly monitored within business function reporting, and the Organisation Aims Report.

Reference Number: CPSC/17/23

Report title: Council-owned 'for profit' organisations	
Report to: Corporate Policy and Scrutiny Committee	
Report author: Councillor Christopher Whitbread, Chancellor of Essex (Cabinet Member with responsibility for Finance)	
Date: 28 September 2023	For: Information
Enquiries to: Stephanie Mitchener, Director of Finance email stephanie.mitchener@essex.gov.uk or Tina French, Head of Finance Commercial Insight email tina.french@essex.gov.uk	
County Divisions affected: All Essex	

1. Purpose of report

- 1.1 This report provides the Scrutiny Committee with an overview of the Council owned trading organisations. It provides details of the purpose of each organisation and the financial returns from these interests.
- 1.2 The report deals with the shareholder perspective and sets out the assurance processes around these companies.

2. Background

- 2.1 The Council currently has an interest in four organisations which operate potentially for profit. Three of them are wholly owned by the Council. These organisations have been set up for a variety of reasons. A summary of each organisation is shown at Appendix 1.
- 2.2 In addition, there are other organisations where the Council has an interest or involvement, but these are not for profit. These are also shown in Appendix 1 for the sake of completeness, and they are beyond the scope of what the committee has requested.
- 2.3 An entity is defined as an Essex Company if the Council:
 - is a member or shareholder of a company; and limited by guarantee
 - in a position to appoint one or more directors
- 2.4 The Leader of the Council is the Lead Member (Councillor) for all council owned trading organisations. There is guidance in place which sets out our requirements about creating new companies or joining a new company.
- 2.5 The company guidance is designed to:
 - a. ensure there's a clear business case for any proposed investment/acquisition proposal or continued participation, and that they contribute to the achievement of the corporate objectives.

- b. allow us to manage, within a well-defined framework, the performance of the companies that ECC wholly or partly owns.
 - c. minimise the risk of unlawful or unconstitutional decisions or actions.
 - d. enable us to obtain the financial information it needs to comply with our own statutory financial reporting requirements in relation to entities it partly or wholly controls and to manage our exposure to risk.
 - e. provide assurance about transparency and record keeping in relation to our companies.
 - f. set up a shareholder board to have central oversight of companies.
- 2.6 The full company guidance, adopted in 2017, is shown at Appendix 2. Please note that the guidance is being reviewed.

3. Shareholder Board

- 3.1 There is a shareholder board in place which meets annually. The Board members include the Lead Member, the Section 151 Officer (or nominee) and the Monitoring Officer (or their nominee).
- 3.2 Each company has a lead ECC officer who is responsible for managing the relationship between the company and ECC. The lead officer must provide an annual report to the shareholder board.
- 3.3 The shareholder board has focussed on ensuring that risks are managed and that companies are still required. It has been successful in reducing the number of companies significantly.
- 3.4 However, the shareholder board has not traditionally held the conversations about whether or not the company is performing well or whether it is doing what the Council requires. These conversations have been held elsewhere with their own governance and membership. Officers are working on a proposal to bring this into one place and reconstituting the shareholder board.

4. Background to the Company and Financial returns

ECL (Essex Cares Ltd)

- 4.1 The company operates social care services. It was created about 15 years ago when ECC's internal provider service was transferred to the company. It continues to provide most of its services for the Council, but it has successfully won contracts with some other local authorities, most notably on the south coast and in east London boroughs. It has four subsidiary companies, three of which are purely for pension liability purposes.
- 4.2 This company does provide a dividend to the Council as shareholder. There is a dividend policy in place, which states that ECL will pay the highest of either of 50% of Distributable profits or £900k to ECC each financial year.

- 4.3 To date, £3.4m of dividends have been paid over the last 4 years, with £1.9m expected for 2022/23 and 2023/24.

Essex Housing Development LLP

- 4.4 This company acquires land, frequently from ECC, and develops it for housing to help address housing need throughout the county by building high quality specialist, private and affordable homes.
- 4.5 This LLP does not currently provide a dividend to the Council as shareholder.
- 4.6 A dividend policy is being developed.
- 4.7 However, the Council makes credit facilities available to Essex Housing at an interest rate that is reflective of the market and complies with the rules about subsidy control. For development loans this is set at Public Works Loan Board (PWLB) 'maturity' new loan rate at the time of each loan advance, plus 4.5%.
- 4.8 Seax Trading Limited (see below) is a 1% partner of Essex Housing and 1% of any distribution from Essex Housing is reflected in their year-end accounts.

Medtech Accelerator Ltd

- 4.9 The Council holds 500,000 ordinary £1 shares in the company Medtech Accelerator Ltd (this currently represents a 20% holding in the company). This company was set up to facilitate the early-stage development of innovations in the broad area of medical technology (devices, diagnostics, software and eHealth) that seek to address unmet clinical needs within the UK National Health Service. It was hoped that some of these would be based in Essex. These investments were made at an early stage of the development of the various businesses, and it is likely that some businesses will succeed, and others will fail.
- 4.10 The Council has not received a dividend to date and is not expected to over the medium term.

Seax Trading Ltd

- 4.11 This company was established to broaden the Council's commercial opportunities by enabling the Council to trade some of its services with the private sector via a limited company for a financial return. The only service currently using the company is Place Services, an in-house council service. Employees in Place Services generate the sales and the company contracts with the business for the provision of the services. The work is carried out by ECC employees who recharge their time to the company. The company keeps a margin to cover its operating costs.
- 4.12 In the 5 years since starting to trade Seax Trading Ltd (up to 21/22) has been used to generate approximately £500,000 of income for the Council (specifically

Place Services), with the last 3 years generating an average of £135,000 of income per annum that would not otherwise have been available.

- 4.13 This company does not currently provide a dividend to the Council as shareholder, but it does provide the opportunity for traded services to do work which they otherwise wouldn't be able to do.

5. Reviews undertaken to date

- 5.1 There are several reviews underway within the area, and therefore a level of change is anticipated.
- 5.2 A review of the shareholder board is also being planned to ensure its effectiveness.

Governance Reviews

- 5.3 Governance reviews have been initiated for both Essex Cares Ltd and Essex Housing LLP. In both cases the Local Partnerships guidance and toolkit is being used as the methodology for the reviews.
- 5.4 The Essex Cares review was concluded in November 2022 and the overall findings confirmed from a shareholder perspective ECL has the appropriate governance and financial arrangements in place. The actions were captured against green and amber RAG status. The evidence gathered concluded no red rated status for action.
- 5.5 It was also recommended the shareholder carries out a refresh of the toolkit on an annual basis and the findings / recommendations reported to the council's Company Board. This fed into a wider review of ECL (see below).
- 5.6 The Essex Housing LLP review has not yet been concluded but initial findings show that there is more to do to strengthen declarations of interest and the board of the LLP will be assessing how it operates against the governance standards.

ECL review

- 5.7 The Leader of the Council requested a strategic review of ECL to assess whether the existing arrangements are delivering the most optimum outcomes for ECC. The scope of the review was jointly agreed between ECC and ECL.
- 5.8 The review is structured around three themes:
- a) Strategic Partnerships – the degree to which ECL and ECC objectives are aligned and how well the two organisations work together and whether the existing governance arrangements are fit-for-purpose.
 - b) Commissioning – how ECL can appropriately respond to the Council's commissioning requirements in adult social care.
 - c) Commercial – whether and how ECL should operate commercially inside and/or outside the Essex boundary.

5.9 The review work has concluded, and a draft report prepared.

Appendix 1

'For profit' organisations

Name	Type	Purpose /Explanation	Year of inception	Size	Date of published accounts	ECC Lead	Board Members (employees or members of ECC in bold type)
Essex Cares Ltd There are 4 subsidiaries: ECL Trading Ltd, Essex Community Support Ltd*, Essex Employment and Inclusion Ltd*, Essex Equipment Services Ltd* * Purely held for pension liability purposes	Local Authority Trading Company (ECC 100%)	To support the delivery of social care and associated products and services. Key aims include increasing skills (both life skills and employment skills), enabling more vulnerable adults to live independent of social care, limiting cost and driving growth in revenue by reducing the need for ongoing care.	2008	21/22 Turnover £53.7m Profit before tax £2.2m	Dated 18/1/23	Michael Neumann	Peter Fairley , Wendy Thomas, Joe Coogan, Michael McDonagh, Vineeta Manchanda, Bruce Moore, Steve Bennett, Cllr Ian Grundy
Essex Housing Development LLP	Limited liability partnership (ECC 99%, Seax Trading Limited 1%)	To help address housing need throughout the county by building high quality specialist, private and affordable homes. It supports the delivery of Everyone's Essex.	2020	21/22 Equity £228,978	Dated 20/12/22	Daniel Tooke	Cllr Ray Gooding, Stephanie Mitchener, Chris Martin, Gwyn Owen , Alan Lewin (Independent)
Medtech Accelerator Limited	Private limited Company (ECC 20%)	Set up to facilitate early-stage development of innovations in medical technology which address unmet clinical needs within the NHS. Investments so far have been concentrated in Cambridge.	2016	£500k investment.		Steph Mitchener	Dr Anne Blackood, Christine Golding , William Jones, Dr Louise Ann Jopling
Seax Trading Limited	Private limited Company (ECC 100%)	Enables ECC to trade services with the private sector for financial return.	2017	21/22 Turnover £127,673	Dated 20/12/22	Tina French	Tina French, Ian Fulton

Appendix 1 cont'd

'Not for profit' organisations

Name	Type	Purpose /Explanation	Year of inception	Size	Date of published accounts	ECC Lead	Board Members (employees or members of ECC in bold type)
Active Essex	Charitable Incorporated organisation (ECC has no ownership interest)	A county-wide initiative investing in provision of sports and physical activities for the residents of Essex with the overarching aim of improving long-term health and residents' quality of life across the county.	2016	21/22 Net receipts £224,477	Dated 20/12/22	Jason Fergus	<u>Trustees</u> Jennifer Tomblin, Cllr Ray Gooding , Robert Hayne, Robert McIntock, Jason Fergus , Katie Heron, Leigh Norris, Azeem Akhtar
Freeport East Limited	Company limited by guarantee	To facilitate skills, innovation, net zero, trade and investment and regeneration and levelling up within the Freeport Boundary through the development of plans aligning to partner strategies, project proposals and securing funding for such projects. The company acts as the delivery for some aspects of Freeport East	2022	N/A	N/A	Steve Evison	Christopher Bally, David Beavan, Stephen Beel, Emily Brightman, Clemence Cheng, Andrew Cook, Ian Davidson, Rachel Eburne, Andrew Lawrence, Mark Lemmon, Robert Singh, Richard Smith, Christopher Starkie, Cllr Lesley Wagland
South East Local Enterprise Partnership (SELEP) Limited	Company limited by guarantee (Dormant)	To support the Business-led board that works in partnership across the South-East to drive sustainable private-sector-led growth and job creation. Government set out the requirement for a company to be created in order to receive funding. ECC is the Accountable body for SELEP.	2020	N/A	Dated 21/10/22	Michael Neumann	Matthew Arnold, Cllr Christine Bayliss, Cllr Kevin Bentley , Cllr Graham Butland, Ana Christie, Simon Cook, Karen Cox, Cllr Tony Cox, Sarah Dance, Lauren Edwards, Carol Ford, Lara Fox, Elizabeth Gibney, Perry Glading, Cllr Keith Glazier, Roger Gough, Josephine James, Jeremy Kerswell, Vincent Lucas, Angela O'Donoghue, Graham Peters, David Rayner, David Sheppard, Penelope Shimmin, Clive Soper

Appendix 1 cont'd

'Not for profit' organisations

Name	Type	Purpose /Explanation	Year of inception	Size	Date of published accounts	ECC Lead	Board Members (employees or members of ECC in bold type)
Veolia Pitsea Marshes Maintenance Trust	Charitable Company limited by guarantee	Environmental body to distribute grant funding vial the landfill tax credit scheme to projects in the Basildon area which benefit the environment and local community.	2000	No budget requirements from ECC ECC is a trustee.	Dated 3/2/23	Jason Searles	ECC is a corporate trustee. Its authorised rep is Cllr Malcolm Buckley



Company Guidance

This Guidance provides information about companies and sets out the governance arrangements for their creation, [control](#) and monitoring.

Dated November 2017

Index

Guidance

1. Introduction
2. Creation of ECC Companies
3. The Shareholder Board
4. ECC Directors
5. The Lead Officer
6. The Role of Financial Professional Services
7. Monitoring of ECC Companies
8. Registration of Interests and Gifts and Hospitality

Appendix 1

1. Introduction
2. Companies
3. Directors
4. Other Key Personnel

1. Introduction

- 1.1 This Policy applies to all Essex County Council (ECC) companies.
- 1.2 A company is an "ECC Company" if ECC is (or will be): -
 - a. a member or shareholder of the company; and
 - b. in a position to appoint one or more directors.
- 1.3 The Leader of the Council is the Lead Member (Councillor) for all ECC companies.
- 1.4 All ECC Companies must have a Lead Officer. See paragraph 6 for further information.

Why ECC has companies

- 1.5 ECC is experiencing an increasing number of requests to be involved in companies, either as a shareholder or member, or appointing a director. This is partly because there is an increasing desire to trade on a commercial basis. Local authorities have always traded, but their powers have been restricted. The Local Government Act 2003 gives local authorities a broader power to trade in goods and services on a commercial basis. Unlike other trading powers, the use of the 2003 Act trading powers must be exercised through a company.
- 1.6 The continued financial pressures on local authorities has led to an increased need to find new ways to generate income. Local Authorities can trade through a company on whatever terms they like. They can trade outside their area and can trade with anyone who wishes to buy their goods and services. Accordingly the use of the trading power via a company allows for profit to be generated, which can be used as the local authority wishes – to protect services.

- 1.7 However, companies must comply with company law and ECC needs to ensure that companies are properly controlled so that we comply with the law and are not exposed to risk.
- 1.8 This guidance sets out ECC's requirements with respect to creation of new companies or investment in the equity of an existing company, and management of those companies to:
- ensure there is a clear business case for any proposed investment/acquisition proposal or continued participation in ECC companies and that they contribute to the achievement of the corporate objectives;
 - allow ECC to manage, within a well-defined framework, the performance of the companies it owns either solely or in conjunction with others;
 - minimise the risk of unlawful or unconstitutional decisions or actions;
 - enable ECC to obtain the financial information it needs to comply with ECC's own statutory financial reporting requirements in relation to entities it partly or wholly controls and to manage the Council's exposure to risk; and
 - improve transparency and record keeping in relation to ECC companies.

2. Creation of ECC Companies

- 2.1 The creation of an ECC Company is a significant step. No ECC Company may be created or dissolved without a formal Cabinet or Cabinet Member Decision.

Steps to consider before an ECC Company is created

- 2.2 Before a decision is taken to approve the creation of an ECC Company the proposal should be considered by the Shareholder Board.
- 2.3 A report to create an ECC Company must be in the usual format for a Cabinet Member Decision and set out:

Who is the Lead Officer for the proposed Company

- 2.4 Each ECC Company must have a Lead Officer. They will ensure compliance with this guidance and will ensure that ECC's relationship with the company is managed appropriately. Further details of the role of the Lead Officer are set out in section 5 of this guidance.

Who is proposed to be appointed by ECC as Director(s) of the Company

- 2.5 The proposed director must comply with the requirements in section 4 of the guidance.

Additional Information:

- 2.6 The report must provide the following information:
- a. the nature of ECC's proposed involvement in the Company and the (draft) Articles of Association;

- b. the relevance to the ECC's Organisation Strategy and other Policy;
- c. Implications and compliance with the Local Authorities (Companies) Order 1995;
- d. The estimated turnover of the company, the proposed business model, accounting and audit arrangements.
- e. Financial, resource and risk implications for ECC, including working capital requirements, any need for ECC to guarantee or underwrite the liabilities of the company in the event of 'going concern' considerations or insolvency and tax implications;
- e. Procurement and state aid implications for the Company's activities;
- f. human resource implications, including the response to consultation with staff / stakeholders if consultation has been carried out on the proposal.
- g. equality impact assessment;
- h. premises arrangements e.g. will there be a licence to use ECC premises;
- i. support arrangements;
- j. insurance arrangements;
- k. information and technology management implications and proposals;
- l. any arrangements for the use of ECC's name and brand;
- m. where ECC is a member/shareholder, how it is proposed that ECC will be represented at member meetings; and
- n. the Company's proposed business plan, or if no business plan is proposed, then why not.

3. The Shareholder Board

3.1 The Shareholder Board comprises of:

- The Lead Member;
- The Section 151 Officer (or their nominee); and
- The Monitoring Officer (or their nominee).

3.2 The Shareholder Board must consider any proposals to:

- a. Establish or dissolve an ECC Company,
- b. dispose of shares in an ECC company; or
- c. allow the company to issue new shares or allow anyone else to dispose of shares; or
- d. Change the company status from dormant to trading and vice versa.

3.3 The Shareholder Board will oversee ECC's relationship with ECC Companies, delivery of each ECC company's business plans, performance, financial issues, investments and governance arrangements.

4. ECC's Directors

4.1 Anyone appointed by ECC as a director to an ECC Company must:

- a. ensure that information required by ECC is provided;
- b. tell the Lead Officer if their connection with ECC will be coming to an end (eg if they cease to be an officer or a member as the case may be);
- c. answer questions about the activities of the Company put to them by ECC;

- d. ensure that arrangements are in place to comply with this guidance;
- e. undergo training, and receive briefings, as and when recommended by ECC Monitoring officer or s151 Officer; and
- f. consider internal and external audit reports relating to the company and seek to ensure that any recommendations will be implemented.

Appointment/Removal of Directors

- 4.2 Any decision taken by ECC (either under the Company's Articles or as shareholder) to appoint or remove a director of an ECC Company will be taken by the Lead Member by way of a CMA. The report must contain information regarding the proposed remuneration of the director and any benefits package to be received. Before the appointment of the director, careful consideration should be given to:
- a. the level of remuneration to be paid, and in the case of directors who are also councillors this must comply with the statutory restrictions (see below);
 - b. any potential conflicts of interest;
 - c. the skills and experience of candidates for appointment; and
 - d. the duration of the appointment.

Remuneration of ECC Company Directors

- 4.3 ECC Officers appointed as directors of ECC companies may not be paid any remuneration in addition to the salary they receive from ECC. They may not be paid by ECC or by the Company.
- 4.4 ECC's section 151 officer may approve exceptions to allow officers to be remunerated.
- 4.5 ECC Officers may be paid reasonable expenses incurred in the performance of their duties, and these will be payable by either the Company or by ECC. However any remuneration paid by the company must not exceed that which an ECC employee could claim from ECC under ECC's Travel and Subsistence Policy.
- 4.6 Where a Councillor is appointed as a director of a Regulated Company (see Appendix 1), it is essential that any remuneration paid complies with the provisions of the Local Government and Housing Act 1989 and article 6 of the Local Authorities (Companies) Order 1995 –i.e. it must not exceed what would be paid under the ECC Scheme of Member's Allowances. The Lead Officer must seek advice from the ECC Monitoring Officer if they believe that the company wishes to pay money to a regulated director.
- a. A regulated company shall not pay to a regulated director remuneration in excess of the maximum amount; or pay them an allowance, or reimburse expenses, in excess of the maximum amount.
 - b. The maximum amount is the greatest amount which would be payable by the relevant authority in respect of a comparable duty performed on behalf of that authority, less any amount paid by that authority in respect of the relevant duty to the regulated director in question;

- c. The maximum amount for travelling or subsistence allowance would be that which would be payable to that director by the local authority if the relevant duty were an approved duty.

Indemnities

- 4.7 Before appointing a director, the arrangements for indemnity cover should be confirmed with the company. Directors will be indemnified and covered by ECC insurance provisions if the work they are undertaking is part of ECC business and they are acting on behalf of ECC and in ECC's interest.
- 4.8 If the company is a not part of normal ECC business, separate indemnity cover will be required, and it would be expected that this would be provided via the Company. If there is any doubt, the director should seek advice from the Insurance Team.

Conflicts of Interest

- 4.9 Directors should ensure that they are aware of the potential for a conflict of interest between ECC and the ECC Company. Officers and Councillors cannot make decisions on behalf of ECC if there is a conflict of interest between their role within the company and the decision which to be taken. Councillors may need to declare a DPI (if remunerated or a Code Interest).
- 4.10 The Lead Officer must ensure that any significant conflicts of interest between an ECC Director's private interests and those of the Company are reported to:
 - * ECC's Monitoring Officer; and
 - * ECC's Finance Team.

5. Lead Officer

- 5.1 For each ECC Company, the Relevant Executive Director will nominate a Lead Officer who will ensure compliance with this Guidance and will ensure that ECC's relationship with the company is managed appropriately.
- 5.2 The Lead Officer must ensure that:-
 - a. the correct ECC governance procedures are followed;
 - b. the Company Change Forms are completed and submitted to the Director, Legal and Assurance in a timely fashion;
 - c. any failures by the company to comply with its legal and financial obligations are reported to the Shareholder Board and that action is taken to address any compliance issues;
 - d. Financial Services has the financial information and that they are given the information needed to make these determinations in good time;
 - e. Financial Services is advised of any equity owned in an ECC Company. For example, if there is a purchase or sale of shares, or ECC becomes a

member of a company limited by guarantee or a Limited Liability Partnership, then Financial Services should be informed;

- f. there are appropriate arrangements within their service for replacing company directors where necessary, for example if a company director leaves ECC, becomes incapacitated or changes work area;
- g. relevant information is passed to:-
 - i. Legal and Assurance
 - ii. Financial Services; and
 - iii. Traded Development Services.
- h. If there is no Company Secretary, the Lead Officer should ensure arrangements are made to comply with company law; and
- i. The ECC intranet pages are up to date.

5.3 A Lead Officer may be appointed as a director of the company but this is not essential.

6. The Role of Financial Services

6.1 ECC's Financial Services will maintain a central record of Company accounts and will ensure information is reflected in ECC's accounts as required.

6.2 Financial Services will: -

- a. offer advice on putting appropriate accounting arrangements in place;
- b. ensure that relevant accounting standards are complied with;
- c. ensure that external auditing is arranged, if necessary;
- d. complete the registration for VAT and Corporation Tax if necessary;
- e. prepare and submit returns to HMRC on time if necessary; and
- f. review ECC's involvement in ECC Companies on an annual basis to determine the information to be included in its own Statement of Accounts.

7. Monitoring of ECC Companies

7.1 It is important that ECC has sufficient insight into the activities of all ECC Companies and their performance, to ensure that any risks are being appropriately managed, and the company's objectives are being met.

Annual Report

7.2 In order to ensure that the Shareholder Board is informed annually of the ECC companies' performance, the Lead Officer for each Company shall by the end of December each year; submit a report to the Shareholder Board. The report will include information on the company's activity during the previous financial year including:

- a. changes to membership, directorships, company secretary or auditors;
- b. final audited accounts;

- c. statement of why the company is considered to be a going concern
- d. budgeted turnover for current year and, if available, future years;
- e. audit recommendations and actions being taken to address them;
- f. recommendations from internal or external inspectors;
- g. information about any dormant companies, including any intention to change their status; and
- h. The report will also set out the Lead Officer's risk assessment of the company, its trading and its impact on ECC. The risk profile will then enable the Shareholder Board to understand any potential implications and exposure to ECC.

*subject to the information provided under the points above, ECC may seek further details and submission to enable it to complete the ECC Statement of Accounts.

- 7.3 The Shareholder Board will consider as part of their review whether ECC should withdraw from a particular company and if so how that should be achieved (e.g. by sale or dissolution of the company). The default position will be that companies should only be retained if they provide a clear benefit to ECC.
- 7.4 The Shareholder Board will also decide whether there is a requirement for any ECC Company to provide updates more frequently or in greater detail or whether additional reporting channels to Councillors or senior management should be put in place, particularly where they are considered to be 'high risk'.

Dormant or non-trading companies

- 7.5 Even if the company is not trading, there are still legal compliance requirements to produce returns to Companies House, and the Lead Officer shall be responsible for ensuring continued compliance with those requirements and making an annual report to the Shareholder Board.

Financial Arrangements

- 7.6 ECC may be required to consolidate the accounts of ECC Companies and/or disclose details of its involvement in particular companies, within its statutory Annual Statement of Accounts. Accordingly Financial Services will require financial information about each ECC Company. The Lead Officer shall ensure that the relevant information, including copies of the company's accounts and other supporting information are provided to the Financial Services team in line with ECC's annual timetable for closure of its accounts.
- 7.7 The Lead Officer shall inform ECC's Section 151 Officer as soon as they become aware of any transaction of an ECC Company which is likely to affect ECC's financial position.

Audit

- 7.8 It is important that ECC companies have in place an appropriate governance framework and effective system of internal control, and will require proportionate arrangements to monitor on-going effectiveness and provide assurance to the Directors, Shareholders and ECC. The Lead Officer will be

expected to liaise with the ECC Chief Audit Executive to determine these arrangements.

- 7.9 ECC may be required to include information about governance of ECC companies within its Annual Governance Statement, and therefore each Lead Officer will be expected to ensure that it ECC Chief Audit Executive is provided with all relevant information.
- 7.10 There is an expectation that all ECC Companies which need to operate systems will use existing frameworks and systems, for example - IT systems and corporate financial systems. If there is a need to use alternative arrangements the Lead Officer is expected to work with the ECC Chief Audit Executive to ensure that internal control arrangements are robust and appropriate assurance mechanisms are in place.
- 7.11 ECC companies are normally required to appoint an external auditor in accordance with the companies act. The Lead Officer will be expected to liaise with S151 Officer to agree these arrangements.

ECC Intranet

- 7.12 Details of all ECC Companies shall be available on the intranet, and shall include:
- name of the Lead Officer;
 - details of the type of company
 - Company registration number
 - copies of the Articles and Memorandum of Association
 - copies of any Share certificates.
- 7.13 The Lead Officer is responsible for ensuring that the information contained on the Intranet pages is up to date.

8. Registration of Interests and Gifts and Hospitality

- 8.1 Officers and Councillors involved in ECC Companies must comply with ECC's Declaration of interest policy (officers) and Code of Conduct (Councillors) and ensure that where they have been appointed as a director of an ECC Company that this position is recorded within their register of interests, along with information about any fee or allowance from the company they receive in respect of their directorship. This may have to be disclosed in ECC's accounts.
- 8.2 In addition officers and Councillors must comply with ECC's Gifts and Hospitality Policy (officers) and Code of Conduct (Councillors) and ensure that they register any gifts or hospitality they receive. Members are not required to register gifts with a value of under £25.

Appendix 1

1. Introduction

- 1.1 This appendix sets out information about different types of companies and how they are regulated. It is not a substitute for legal advice.

2. Companies

Types of Companies

- 2.1 A company is a legal person which exists independently of its owners. It may enter into contracts, own property and trade in its own right. The owners of the company (usually referred to as 'members') appoint the directors and make certain other strategic decisions about the company. Almost all companies are limited companies. A company is a 'limited' company if the members' liability for the company's debts is limited in some way. A company may be
- Limited by guarantee* – the liability of its members is limited by its Articles to such amount as the members undertake to contribute to the assets of the company in the event of it being wound up (usually £1); or
 - Limited by shares* – the liability of its members is limited by its Articles to the amount unpaid, if any, on the shares held by them. This would be the extent of the shareholders' obligation to contribute to the company's assets.
- 2.2 There are also other delivery models available including:
- Partnerships;
 - Unincorporated Associations;
 - Limited Liability Partnerships (LLP);
 - Charitable Incorporated Organisation (CIO); and
 - Company Interest Company (CIC)

Each has its own specific obligations and duties, and associated risks and liabilities. Whilst they are not specifically addressed within this guidance the governance arrangements would apply. Advice should be sought from Essex Legal Services and Financial Services on the appropriate vehicle at an early stage [in accordance with ECC's Financial Regulations].

A Regulated Company

- 2.3 In addition to company law, the Local Government and Housing Act 1989 imposes some regulations on some companies in which local authorities have an interest. These companies are called 'regulated companies'. To be a Regulated Company, a company must fall into one of two categories, either the company is:
- Controlled by the local authority; or
 - Significantly influenced by the local authority.

Controlled companies

- 2.4 A company will be 'controlled' if one or more local authorities can (directly or indirectly) do any of the following;
- a. control the majority of votes at the general meeting (ie owns a majority of the shares);
 - b. have the power to appoint or remove the majority of the directors.
- 2.5 Where there are two or more local authorities who, acting together, can do any of these things, then the company is also considered to be controlled by a local authority.

Influenced companies

- 2.6 A company will be an 'influenced' company if the following two criteria are met:
- (a) there is a business relationship between the Company and the local authority under which any of the following apply: -
 - a. the local authority (or its companies) provide more than 50% of the company's turnover;
 - b. More than half of the company's turnover comes from exploiting the local authority's assets;
 - c. Capital grants from the local authority exceed one half of net assets of the company;
 - d. Nominal value of the local authority's shares exceeds half of net assets of the company;
 - e. The total of (c) and (d) above plus any loans from the local authority exceed half of fixed and current assets of the company;
 - f. Company occupies land obtained by the company from the local authority at below market value; and
 - g. The company intends that in the future any of (a) to (f) above apply.

AND

- (b) Either
 - a. 20% or more of voting rights in general meeting are held by the Local Authority officers/councillors (or someone who was a councillor within last 4 years);
 - b. 20% or more of directors are such persons; or
 - c. 20% of voting rights of directors are held by such persons.
- 2.7 Regulated Companies are subject to restrictions imposed by the Local Authorities (Companies) Order 1995, which require the company;
- a. To identify the local authority's participation in the company on the company's official business stationery;
 - b. To ensure that the levels of the remuneration of directors who are councillors does not exceed local authority levels for a comparable duty;
 - c. Not to permit disqualified councillors to act as directors;
 - d. Not to engage in a party political activity and/or publicity;

- e. To be accountable and provide information to the local authority's auditors;
- f. To provide information on request to councillors at meetings of the local authority;
- g. To provide financial information to the local authority;
- h. minutes of shareholder/member meetings must be open to public inspection.

How Companies Work

- 2.10 A company is a legal entity. It can enter into contracts and can sue and be sued in its own name. Members and Directors do not normally incur personal liability for any liability owed by the company.
- 2.11 A company is owned by its members, who are the shareholders of the company, or in the case of a company limited by guarantee, the people who have been admitted to membership of the company.
- 2.12 Companies are governed by a constitution which is called its Articles of Association. This sets out how the company will operate and who is allowed to make decisions within the company. There are Model Articles set by law. People setting up companies do not have to use the models but they are a useful starting point. ECC companies usually adopt their own bespoke articles.

Legal Duties on Companies

- 2.13 There are a range of legal duties which companies are required to meet, and it is therefore important to ensure that the directors and shareholders are fully informed of them.
- 2.14 There are some criminal offences where, if the company commits an offence then a director of the company can also be prosecuted if they have done something wrong or failed to do something they should have done.
- 2.14 Health and safety law imposes a statutory duty on employers. If a company is an employer then directors can have personal liability if these duties are breached. Directors have both collective and individual responsibility for health and safety, and therefore need to ensure that the company has appropriate procedures for auditing health and safety and ensuring that the Board receives reports on health and safety matters.
- 2.15 If an offence is committed under health and safety law 'with the consent or connivance' of any director, or is attributable to any neglect on the part of any director, then both the company and the director can be prosecuted under section 37 of the Health and Safety at Work etc. Act 1974. Managers have a similar liability.
- 2.16 Companies are required to send specific information to Companies House. They are required to tell Companies House about certain important decisions the company has taken (such as changes of name or of the company's constitution, about changes to the structure of the Board). Although directors do not usually send the information themselves, they do have responsibility for ensuring that the information is sent. Companies House can take action

against directors personally if information is not sent within the required timescales. Whilst companies are not required to have a company secretary, most companies do appoint someone into this role, who holds responsibility for ensuring that the reporting requirements to Companies house are met.

3. Directors

3.1 Directors do not own the company, but are accountable to the shareholders/members for the activities carried out by the company and they make the day to day decisions affecting the company. If a director is employed within the company they are known as an Executive Director. Those directors not employed within the company are known as non-executive directors.

3.2 For local authority companies, a regulated director is someone who is both:

- a. a director of a regulated company and
- b. a councillor of the local authority that controls or influences the company.

Legal Duties

3.3 The general legal duties of a company director are: -

- a. to act in accordance with the company's Memorandum of Association and Articles of Association and only exercise powers for the purposes for which they are conferred;
- b. to act in good faith, in a way most likely to promote the success of the company for the benefit of its members and shareholders as a whole and in so doing to have regard to various specified matters;
- c. to exercise independent judgment;
- d. to exercise reasonable care, skill and diligence;
- e. to avoid a situation in which the director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company;
- f. to not accept a benefit from a third party conferred by reason of the director being a director, or their doing (or not doing) anything as a director;
- g. to declare if they are in any way, directly or indirectly, interested in a proposed transaction or arrangement with the company, and the nature and extent of that interest, to the directors; and
- h. to appoint a company secretary (if one is required by the Companies Act 2006).

3.4 Directors may be personally liable if they trade when they know or ought to know that a company is insolvent. Furthermore, if rules and requirements are not followed, directors can be fined, prosecuted or disqualified from being a company director.

- 3.5 A company's Board of Directors usually hold meetings. The Board is expected to provide strategic management and have oversight of the company. Formal decisions of the Board are made through passing Board Resolutions. The Board can delegate decisions to individual Directors or to other people (eg employees or others).

4. Other Key Personnel

Company Secretary

- 4.1 The role of the company secretary is to:-
- a. Maintain the company's records and registers (statutory and non-statutory);
 - b. Run the agenda for and to take minutes of, board meetings and members' meetings; and
 - c. Filing documents at Companies House, as required by statute.
- 4.2 Where there is an obligation to file documentation at Companies House, it is important to note that there are often strict time limits from the date at which the relevant decision was made (i.e. the date of a Board Resolution or Written Resolution or the date on which a CMA is passed). Fines will be levied by Companies House for any late filings. The Board must, therefore, ensure that the Company Secretary is furnished with all Board Resolutions or Written Resolutions immediately after they are made.
- 4.3 Private Limited Companies are not required by law to appoint a Company Secretary, however, most companies choose to do so. Whenever possible, an officer in Essex Legal Services will usually be the Company Secretary for Regulated Companies.

Local Levelling Up Fund/ Local Community Fund Update

Reference Number: CPSC/18/23

Report title: Local Community Fund (replaced the Local Levelling up Fund) Update	
Report to: Corporate Policy and Scrutiny Committee	
Report author: Graham Hughes, Senior Democratic Services Officer	
Date: 28 September 2023	For: Discussion and identifying any follow-up scrutiny actions
Enquiries to: Graham Hughes, Senior Democratic Services Officer at graham.hughes@essex.gov.uk .	
County Divisions affected: Not applicable	

1. Introduction

This item was requested by the Committee at its last meeting on 27 July 2023. Furthermore, the request stipulated that the update should be arranged for the next meeting of the Committee.

2. Action required

The Committee is asked to consider this report and any issues arising.

3. Background

On 27 July 2023 the Committee received a note of a withdrawn call-in of the Cabinet Member Decision FP/178/07/23 - Local Levelling Up Fund: Additional Funding Proposals and Minor Amendments to the Local Community Fund Rules.

The Committee agreed that a further update should be prepared for the next meeting to consider the application and approval process for the new Local Community Fund operating for 2023-24 (LCF), which has replaced the Local Levelling Up Fund. The LCF has some different characteristics to the Levelling Up Fund which will be explained further by the Cabinet Member. It was also agreed not to revisit the specific grounds of the call-in which applied to the Local Levelling Up Fund which was in operation for 2022-23. The Committee stressed that, instead, the purpose of such update was to consider if there were any process issues preventing the successful operation of the LCF going forward.

Since then, the Chairman has had a preparatory discussion with the Deputy Leader and Cabinet Member for Levelling Up, and the Economy, and Lead Officers, and agreed that the update should include enabling the Committee:

- To get a full understanding of the features of the LCF, application process, requirements and deadlines;

Local Levelling Up Fund/ Local Community Fund Update

- To hear more about the types of schemes now being funded under the LCF and some examples of good practice.
- To consider a list of some suggested schemes which may give further clarity and ideas to members as to the type of projects in their own area that may be appropriate for which to seek funding from the LCF.
- To understand the numbers of applications received and approved in the last financial year for the Local Levelling Up Fund.
- To understand how grant money was allocated under the Local Levelling Up Fund in the previous financial year.

4. Action Required

The Committee is invited to consider the updates provided in the Appendices listed below.

5. Update and Next Steps

See Appendices below.

6. Appendices

- A. Power Point presentation – Locality Fund and Local Community Fund Update from Councillor Louise McKinlay, Deputy Leader and Cabinet Member for Community, Equality, Partnerships and Performance.
- B. Summary of Local Levelling Up Fund applications received during the 2022-23 financial year.

Locality Fund and Local Community Fund 2023/24

Louise McKinlay, Deputy Leader and Cabinet Member for Community, Equality, Partnerships and Performance

The focus of today's session

- The difference between the Locality Fund and Local Community Fund grant programmes
- What projects have been funded so far
- What makes a good project proposal
- Tips and Tricks
- Ready-made project proposals that you and your colleagues can fund today!



Locality Fund 2023/24



- Fourth year of the scheme
- £5,000 for each member
- No carry forwards from last year
- Rules as simple as possible
- Minimum spend of £300
- Schemes to benefit community
- Consider the environment

Local Community Fund

- Funding allocated on a district basis
- £12k - £36k per district based on number of ECC members (£4000 x number of ECC members)
- Spending by ECC as determined by ECC members and approved by officers and Cabinet Member
- Focussed on
 - **Levelling up**
 - **Youth Services**
 - **Climate Action**
- Replaces LLUF and Youth Service Grants



How much?

Based on £4,000 x the number of members in the district

Basildon
£36,000

Braintree
£32,000

Brentwood
£16,000

Castle Point
£20,000

Chelmsford
£36,000

Colchester
£36,000

Epping
Forest
£28,000

Harlow
£16,000

Maldon
£12,000

Rochford
£20,000

Tendring
£32,000

Uttlesford
£16,000

What is your role in the Local Community Fund?

Members for a district collectively make recommendations

- Will need to be approved by Cabinet Member and the relevant service.

Minimum allocation of £1,000

Match funding preferred, dependent on partner

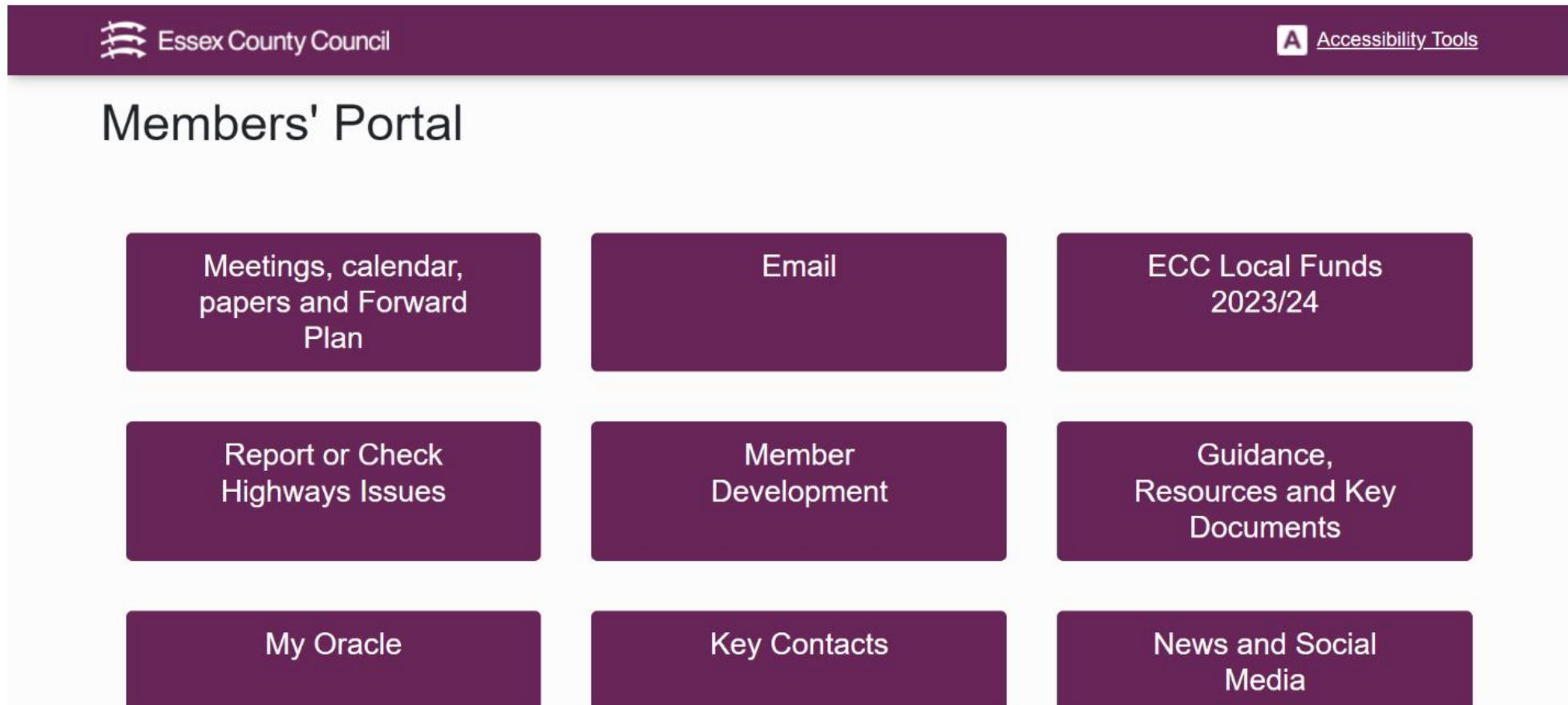
Consider consulting district councillor colleagues

Youth Grant ideas need to involve young people

There is a list of 'pre approved' schemes that you may want to consider

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The Members Portal



Nominations

Members need to come together as they did for LLUF

Decide whether any of the ideas on the list are for you

If you want to use your own proposals – ones that aren't on the list

- Test them with the relevant officers
- Involve young people (YS) (The Youth Service can support you in this)

Make sure that the panel supports the proposal:

- The 'panel' is all ECC members representing the district
- We would like you to aim for unanimity
- If you can't achieve unanimity, then you need to do your best and explain why it's not been achieved
- Explaining Lead Members – they are a coordinating role only

Lead Members

- Cllr Laureen Shaw - Rochford
- Cllr Anthony McQuiggan - Chelmsford
- Cllr Lewis Barber - Colchester
- Cllr Mark Durham - Maldon
- Cllr Michael Hardware - Harlow
- Cllr Susan Barker – Uttlesford
- Cllr Holly Whitbread – Epping Forest
- Cllr Andrew Sheldon – Castlepoint
- Cllr Tom Cunningham – Braintree
- Cllr Jeff Henry – Basildon
- Cllr Louise McKinlay – Brentwood
- Cllr Mark Platt – Tendring

How the Local Community Fund has been used

The full list is an appendix to the covering paper, but I just wanted to give a few examples of the types of schemes that have already been funded which you could consider:

- **Literacy workshops** in Brentwood aimed at both preschool and KS1 (£2160)
- Canvey Island **Youth Project**– paying for youth workers, promotion and one to one support service to help young people better deal with anxiety (£12,500)
- Chelmsford Funding for **tuition of NEETS** in skills such as brickwork and carpentry, as well as the provision of a weekly trade club (£22,500)
- Funding a one year post for a **Family Solutions Worker** to operate across Tendring (£20,000)
- Trustlinks in Rochford – funding a weekly **youth wellbeing and support group** session for young people with mental health issues. Activities included cooking, crafting, sports and gardening. Funding paid for projects workers and resources (£25,000)

Tips and Tricks

- Arrange a meeting between yourselves and the lead member to discuss ideas – we are stronger together
- What are your priorities for your area? E.g. Youth Activities, Digital Inclusion, Raising Climate Awareness
- Remember you need to achieve unanimity if possible – so work with colleagues in advance
- If you are struggling to find projects to spend the fund on, why not:
 - Contact local community hubs in the relevant district
 - Look at the members portal, which has a link to a list of schemes that is continually updated by officers
 - Get in touch with the nominated officers leading on this scheme to discuss your area

How you might want to work together

- **Essex is diverse, our members are diverse, our districts are diverse**
- We have panels of between three and nine members
- There is no general officer support – the ask is that **Members organise themselves**
- We recommend that each district has an initial conversation to decide how members want to work
- You may want to have regular meetings, or you may want to do things by email
- You may want to work with another organisation (e.g. CVS) - although there is no money for this
- Visit the project you fund – share pictures and assets with officers

Why have some submissions been rejected?

- No clear outcomes for residents
- Does not fit with one of the three specified themes
- Funding is for a full or half year project, but is submitted near the end of the financial year
- Projects are treated as an extension of individual locality funds and show no evidence of working together collectively as members in a district (work with your lead member to agree consensus)
- Schemes submitted are for below the £1000 minimum threshold
- Project/scheme submitted very light on detail, so hard to make a decision as to the quality of the proposal. You will need:
 - Details of the organisation
 - Details of what the money is going to be spent on
 - (more detailed than for LF if it isn't on the list)
 - Information about the benefit
 - Details of how you think outcomes of the cohorts will be improved

What's not normally allowed – Local Community Fund

Voucher schemes

Food bank funding

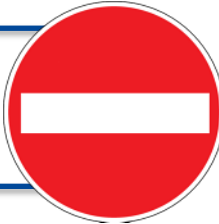
Repairs to buildings or car parks

Parish Council funding unless they provide 50% match funding

Funding current activities

Providing core funding

Schemes that don't improve outcomes



Projects you can fund right now

- The list is there to give you ideas, you don't have to use the list
- It may give you quick wins
- If you are interested check that the item on the list applies to your district
- It may be possible to 'customise' the item – in which case speak to the relevant service

List of suggested schemes



Levelling Up Essex

“Everyone should have the opportunity to succeed in life and fulfil their potential; and that all places and communities should be able to share in this.”

Improving access to
good jobs

Improving access to
high quality green
spaces

Supporting people to
have good physical and
mental health, leading
an independent and
active life

Improving educational
attainment, and access
to quality skills to
support lifelong learning

Supporting people to
feel safe and have
strong ties and mutual
support within their
geographical or social
communities

- Schemes must benefit one of the Levelling up cohorts
 - People with SEND, learning disabilities, or mental health conditions (children and adults)
 - Children / young people on free school meals
 - Working families on low incomes
 - Young adults (16-25) who have not been in education, training, or employment for more than six months.
- Programmes must seek to be sustainable.
- For more information about ideas from the Head of Levelling up Co-ordination or to discuss their own ideas, Members should contact the Head of Levelling up Co-ordination
rebecca.gipp@essex.gov.uk

Climate Action

**Increasing green
infrastructure**

Renewable energy

Active travel

Waste reduction

**Engagement,
education &
awareness**

- Schemes must support voluntary and community projects on climate action to reduce greenhouse gas emissions and/or increase climate resilience to flooding or overheating
 - Programmes must seek to be sustainable
 - Climate projects can deliver multiple outcomes including levelling up and increased youth provision
- For more information about ideas from the Director, Environment and Climate Action or to discuss their own ideas, Members should contact the Director, Environment and Climate Action Samantha.kennedy@essex.gov.uk or Rosalyn.murphy@essex.gov.uk

Youth Projects and Priorities

Youth Service Youth Voice Survey 2023

2372 young people in Essex completed the youth service survey to state topics they felt were important. The top voted topics were:

1. **Mental health and wellbeing**
2. **Bullying**
3. **Low confidence**
4. **Drugs, alcohol, smoking and vaping**
5. **Making life choices**

Community Stakeholder Events

Current projects available for funding right now

The Decision Process

Members work together to decide what to submit

One member submits electronic form which is automatically sent to all members in the district

If anyone disagrees with the proposal they should email Locality Fund immediately

The submitted proposals are then then sent to the relevant service for checking/approval

We will get further information from the organisation

All bids are sent to Deputy Leader via a CMA (in batches)

Decision is made and published

Subject to call in

Outcome notified to members and to recipient after call in expiry

Deadlines – Local Community Fund

- Applications will be approved in batches
- No bids will be accepted after Friday 2 February 2024



For more information

Levelling up

- Philip Oldershaw
- Rebecca Gipp

Youth Service

- Julie Auger / Glenn Crickmore

Climate Action

- Samantha Kennedy
- Rosalyn Murphy
- Kerry Burgess

Technical Support (not advice)

- Emma Hunter
- Paul Turner
- Joanna Boaler



Locality.fund@essex.gov.uk

Summary of Local Levelling Up Fund 2022-23

- (i) There were 31 Approved Schemes (including one from the Basildon Borough area that was submitted late and approved and part funded as an exception).
- (ii) There were 4 applications which were not approved (including one from the Basildon Borough area that was submitted late).
- (iii) For the 2022-23 financial year, the available funding pot per district area was calculated on the basis of £5000 multiplied by the number of elected county council members in that district area.
- (iv) Some district areas were more active in submitting valid applications than other areas and, therefore, there was variation in the amount of schemes approved and funded by district area.
- (v) There were no valid applications made by the Braintree and Epping District areas (having eight and seven members respectively and hence each having an unallocated funding pot of £40,000 and £35,000 respectively).
- (vi) The table below provides an analysis by Borough/City/District.

Borough/City/District	No. of County Council members	Total amount that was available	No. of approved schemes	Total amount allocated/awarded
Basildon	9	45,000	2	17,617
Braintree	8	40,000	0	0
Brentwood	4	20,000	3	13,520
Castle Point	5	25,000	2	25,000
Chelmsford	9	45,000	2	45,000
Colchester	9	45,000	10	30,600
Epping	7	35,000	0	0
Harlow	4	20,000	1	4,744
Maldon	3	15,000	6	15,000
Rochford	5	25,000	1	25,000
Tendring	8	40,000	2	40,000
Uttlesford	4	20,000	2	20,000

Work Programme

Reference number: CPSC/19/23

Report title: Work Programme and Communications Review	
Report to: Corporate Policy and Scrutiny Committee	
Report author: Graham Hughes, Senior Democratic Services Officer	
Date: 28 September 2023	For: Discussion and identifying any follow-up scrutiny actions
Enquiries to: Graham Hughes, Senior Democratic Services Officer at graham.hughes@essex.gov.uk.	
County Divisions affected: Not applicable	

1. Introduction

- 1.1 The work programme is a standard agenda item. The work programme for the Committee continues to be developed and the current position is outlined below.

2. Action required

- 2.1 The Committee is asked to consider this report and issues under consideration in the Appendix and any further development or amendments.
- 2.2 The Scrutiny Board has asked scrutiny committees to also give consideration as to which work programme items may benefit from communications activity in order to promote the work of the scrutiny function both internally and externally. Members are asked to consider this when reviewing the Appendix.

3. Background

3.1 Developing a work programme

Work has continued on identifying priorities and future agenda items. This has included discussions with Committee Members, Cabinet Members and Officers as well as the other Policy and Scrutiny Committees via the Scrutiny Board.

This work has reflected the adoption of the *Everyone's Essex – Our Plan for Levelling Up the County: 2021-2025* strategy at Council on 12 October 2021.

The current work programme is attached in the **Appendix**.

4. Everyone's Essex

The Committee should take account of the *Everyone's Essex – Our Plan for Levelling Up the County: 2021-2025* strategy when considering the work programme and future items.

Work Programme

Particular attention should be paid to the strategic ambitions (and associated commitments and performance measures) most relevant to the work of the Committee. Reflecting the corporate focus of the committee, this could be more looking at the How We Will Deliver section and include scrutiny of effectiveness and efficiency, value for money, and the managing and prioritising of resources, so that investment can be made in the priorities set out in the strategy. It could also include scrutinising the People Plan in the strategy which aims to ensure that the County Council has the capability to meet the demands ahead.

5. Update and Next Steps

See Appendix.

6. Appendix

- Current Work Programme.

APPENDIX**Corporate Policy and Scrutiny - Work Programme – 28 September 2023**

Provisional Date	Topic Title	Lead Contact	Purpose and Target Outcomes	Relevance to Scrutiny Theme	Cross-Committee
28 September 2023	Council owned 'for profit' organisations	Cabinet Member Finance, Resources and Corporate Affairs/ Director Finance	To understand investments made and review current approach and performance	Ability to deliver Everyone's Essex Strategy	Not applicable
28 September 2023	Local Levelling Up Fund	Deputy Leader, Levelling Up, and the Economy	Update on the governance and operation of the Fund.	Ability to deliver Everyone's Essex Strategy	TBC
TBC	Infrastructure Funding Statement/ developer contributions	Cabinet Member, Planning a Growing Economy/ Lead Infrastructure Planning and Finance Manager	To consider the latest IFS annual report and further information on developer contributions	Ability to deliver Everyone's Essex Strategy	Yes – to be delivered as a private briefing
7 November 2023	Financial Update	Cabinet Member Finance, Resources and Corporate Affairs/ Director Finance	To consider the latest financial performance report (Half Year Stage)	Ability to deliver Everyone's Essex Strategy	Not applicable
7 November 2023	Everyone's Essex Strategy	Leader/Deputy Leader/ Director, Policy and the Head of Performance & Business Intelligence	To consider latest update to monitor progress.	Scrutiny of the Everyone's Essex Strategy	Chair/VCS of other committees to be invited
7 November 2023	Transformation Update	Leader /Director Transformation Delivery and Support	To consider an update	Ability to deliver Everyone's Essex Strategy	TBC
Autumn 2023 TBC	Property Strategy update	Cabinet Member Finance, Resources and Corporate Affairs/Director: Property and Investment & Delivery	Further update to include how the core estate is meeting climate targets.	Ability to deliver Everyone's Essex Strategy	TBC

Provisional Date	Topic Title	Lead Contact	Purpose and Target Outcomes	Relevance to Scrutiny Theme	Cross-Committee
30 November 2023	Corporate Economic Renewal Fund/Strategy	Cabinet Members Finance, Resources and Corporate Affairs/Planning a Growing Economy and the Head of Finance Commercial Insight	To consider update and follow-up on issues arising from discussion last May.	Ability to deliver Everyone's Essex Strategy	Yes - PSEG
14 December 2023 - TBC	Treasury Management Policy	Cabinet Member Finance, Resources and Corporate Affairs/ Director Finance	To consider the latest (annual) refresh of the Policy	Ability to deliver Everyone's Essex Strategy	Not applicable
25 January 2024 - TBC	Budget 2024/25	Cabinet Member Finance, Resources and Corporate Affairs/ Director Finance	To consider the draft Budget before presentation to Full Council	Ability to deliver Everyone's Essex Strategy	Not applicable
TBC	Essex Archive Services	Cabinet Member Devolution, Art, Heritage and Culture	Future approach including use of digitalisation.	Ability to deliver Everyone's Essex Strategy	Not applicable
Quarterly – dates in 2024 TBC	Everyone's Essex Strategy	Leader/Deputy Leader/ Director, Policy and the Head of Performance & Business Intelligence	To consider latest update to monitor progress.	Scrutiny of the Everyone's Essex Strategy	Chair/VCS of other committees to be invited
Spring 2024	Facilities Management contract review	Cabinet Member Finance, Resources and Corporate Affairs/ Director: Property and Investment & Delivery	Annual review of structure, identifying savings, performance and encouraging social value	Ability to deliver Everyone's Essex Strategy	Not applicable
Spring 2024	Levelling Up	Deputy Leader & Cabinet Member for Community, Equality, Partnerships and Performance	To consider the Annual Report on the Levelling Up Programme	Ability to deliver Everyone's Essex Strategy	TBC

Being considered by the Scrutiny Board: Arrangements for scrutiny of devolution proposals