



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.

10:00	Tuesday, 10 May 2016	Council Chamber, County Hall, Chelmsford, Essex
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Gavin Jones
Chief Executive

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This meeting is open to the public and the press.

The agenda is available on the Essex County Council website, www.essex.gov.uk. On the home page select 'Your Council' and then 'Meetings and Decisions'. Finally, select 'Full Council' on the date shown above from the meeting calendar.

The agenda and associated documents may be requested in alternative formats such as large print, Braille and on disk.

Please note that an audio recording may be made of the meeting – at the start of the meeting the Chairman will confirm if all or part of the meeting is being recorded.

Prayers The meeting will be preceded by Prayers led by The Reverend Canon Carol Smith, Vicar of Moulsham St John's & Moulsham St Luke's, Chelmsford; Chaplain to Chairman of the Council & Workplace Chaplain, Essex County Hall.

Public Questions A period of up to 30 minutes will be allowed for members of the public to ask questions on any business of the Council (Standing Order 16.12.10). No question shall be longer than three minutes and speakers must have registered with the clerk no later than 7 calendar days before the date of the meeting. On arrival, and before the start of the meeting, registered speakers must identify themselves to staff in order to be seated.

	Pages
1 Election of Chairman	
2 Appointment of Vice-Chairman	
3 Apologies for Absence	
4 Declarations of Interest To note any declarations of interest to be made by Members in accordance with the Members' Code of Conduct	
5 Declaration of result of the Clacton East By-Election and political proportionality	7 - 8
6 Confirmation of the minutes of the meeting held on 9 February 2016	9 - 30
7 Chairman's Announcements and Communications	
8 Receipt of petitions and deputations (if any)	
9 Executive Statement	
10 Motions	31 - 34

11	Changes to appointments of Cabinet and Deputies if necessary	
12	Membership of Committees Report to follow	
13	Chairmen of Committees Report to follow	
14	Appointments to the Health and Wellbeing Board (for noting) Report to follow	
15	Appointments to the Essex Police and Crime Panel Report to follow	
16	Appointments to the Essex Pension Fund Advisory Board Report to follow	
17	Appointments to the Essex Fire Authority Report to follow	
18	List of Outside Bodies for amendment to the Constitution Report to follow	
19	Adoption of Revised Code of Member Conduct	35 - 46
20	Approval for Extended Absence	47 - 48
21	To receive the Leader's report of Cabinet Issues	49 - 52
22	To receive a report of matters reserved to the Council and to consider any recommendations	53 - 66
23	Questions (Standing Order 16.12)	
a	Written Questions	

- b Questions of the Leader, Cabinet Member or the chairman of a committee upon any matter relevant to the business of the Council.**

- c Questions of the representative of the Essex Police and Crime Panel on any matter of that Panel.**

- d Questions of the representative of the Essex Fire Authority regarding the Reports to the Constituent Authorities of the meetings on 17 February and 13 April 2016** **67 - 72**

The Chief Executive’s Report on return of Members Elected and Political Proportionality

Clacton East By-Election Return of Members Elected

Political Proportionality

Colin Sargeant has been returned as the Member for the Clacton East Division at the By-Election held on 31 March 2016 which was triggered by the vacation of the office of the previous Councillor.

Councillor Chris Pond, the Leader of the Non Aligned Group, has given notice that Councillor Sargeant has joined the Non-aligned Group on the Council. This triggers a review of the political balance of the Council’s committees and other bodies.

In addition, Councillor Andy Erskine has resigned from the UKIP Group and he and Councillor Pond have given notice that he has also joined the Non Aligned Group.

Review of Political Proportionality

The political composition of the Council is now as follows:

Group	Number of members
Conservative	44
Labour	9*
Liberal Democrat	9
UKIP	5
Non-aligned group	5
Green	2
Independent	1

*includes one vacancy caused by the death of Councillor Bill Archibald.

The review of political proportionality has been undertaken in accordance with the statutory political balance rules as the law requires the Council to allocate committee seats to registered political groups in accordance with those rules. The rules are as follows:

1. The majority party must have a majority of seats on every committee. Where there are co-opted voting members this is a majority of all seats, not just those held by councillors.
2. The total number of ordinary committee seats must be proportionate. So where the Conservative Group has 58% of Council seats it should have 58% of the ordinary committee seats. The Council's Overview and Scrutiny Committees and Joint Committees do not count as 'ordinary committees'.
3. Each individual committee must be as proportionate as possible. For example, a group with 58% of Council seats should have 58% of the seats on each committee.

These rules can sometimes conflict, depending on the number and size of the political groups. If this happens the first rule is the most important, then the second and then the third.

The political balance rules do not always completely determine the balance of each committee. Sometimes the Council unavoidably has some discretion as to how to apply those rules. For example, if there are committees of the same size which have to be balanced differently under the rules, there is discretion as to which committee those should be applied to. Any discretion is exercised by full Council.

In accordance with usual practice we have undertaken the balancing exercise based on a Labour Group membership of 9 seats pending the by-election. On this occasion this does not strictly accord with the political balance rules, but this is permissible if not opposed by any political group and avoids a further rebalancing exercise if the incumbent party holds the seat at a by-election.

In summary, the Non-Aligned Group has overall increased by one and the UKIP Group has reduced by one. Members should note:

- a. The UKIP and Non-Aligned groups both currently have two 'ordinary committee' seats and there is therefore no change to ordinary committee membership.
- b. The UKIP Group is entitled to one fewer seat on the Essex Fire Authority.
- c. The Fire Authority seat vacated by UKIP should be allocated to the Liberal Democrat Group. Subject to the note above, this seat could be given to the Labour or the Liberal Democrat Group but since Labour have an extra seat on the HOSC it is proposed to give this seat to the Liberal Democrat Group.

Recommendation:

- (1) That the revised political balance of the Council be noted.
- (2) That the seat allocations to political groups be unchanged except that seat allocations to the Essex Fire Authority shall be:

Conservative 12	Liberal Democrat 3	Labour 2
UKIP 1	Non Aligned 1	Green 1

Minutes of a meeting of Essex County Council held at County Hall, Chelmsford on 9 February 2016

Present

Chairman: Councillor N Hume

Vice-Chairman: Councillor J F Aldridge

Councillors:

J Abbott	K Gibbs	M Mackrory
B Aspinell	A Goggin	R A Madden
S Barker	R J Gooding	M Maddocks
R L Bass	I Grundy	M McEwen
A Bayley	C Guglielmi	V Metcalfe
K Bentley	D Harris	A Naylor
K Bobbin	A M Hedley	Lady Newton
R G Boyce	I Henderson	M J Page
A Brown	T M A Higgins	C Pond
M Buckley	R Hirst	J M Reeves
S Canning	P Honeywood	S Robinson
J Chandler	R C Howard	C Seagers
P Channer	J Huntman	K Smith
K Clempner	A Jackson	J Spence
T Cutmore	E C Johnson	A Turrell
M Danvers	J G Jowers	K Twitchen
J Deakin	D J Kendall	S Walsh
M Ellis	J Knapman	R G Walters
A Erskine	N Le Gresley	J Whitehouse
D Finch	S Lissimore	A Wood
M D Fisher	J Lodge	J A Young
R Gadsby	D Louis	

Prior to the meeting:**Prayers**

The meeting was preceded by prayers led by The Reverend Canon Carol Smith, Vicar of Moulsham St John's & Moulsham St Luke's, Chelmsford; Chaplain to Chairman of the Council & Workplace Chaplain, Essex County Hall.

Public Questions

The Chairman welcomed two members of the public who had registered to speak.

- a) Mr Mick Stubbings, a resident of Loughton

‘We, the residents local to Alderton School, have signed this petition because, as you can see from the letters supplied, the problems we are having to endure are not decreasing - they are instead escalating.

Alderton Hall Lane, Poundfields, Greenfields and the Lindens all get gridlocked when the parents are dropping off/collecting their children. The residents are unable to make appointments that require them to use their cars. The bus service that we are fortunate enough to have is unable to keep to its timetable, as buses' progress is restricted and even comes to a standstill. The parents have no consideration for the residents and when approached can get extremely abusive.

North Essex Parking Partnership (NEPP) representatives have already admitted that they are unable to police the parking restrictions because of lack of staff. Therefore the yellow/zig zag lines that exist are useless so what good would come of more of them?

If the parents adhered to the rules of the road and did not park in the restricted areas, they would only move along until there are no restrictions, causing the same problems to different residents, who'd be even more aggrieved than us. The more likely result would be that they'd totally ignore the parking restrictions, knowing that the likelihood of any come back is very slim.

The only way forward is to provide parking/drop off/pick up within the school grounds, for the teachers/workers and parents using their cars. You have been provided with the solution to this problem. There is ample room for this as you will see in the photos sent with the petition, and there is already a hard standing within the grounds with access to it by way of a dropped kerb and drive crossing the grass verge at the bottom of Alderton Hall Lane, which would allow traffic to enter and exit the school grounds.

My question to the Cabinet Member for Education and Lifelong Learning therefore is:

Will you please spend the council tax payer's money in a more effective way, by extending the existing hard standing within the school grounds, and then insist the parents use that area to drop their children off and pick them up?’

With approval of the Chairman Mr Stubbings presented a petition that was then passed by the Chairman to Councillor Gooding, the Cabinet Member for Education and Lifelong Learning. The Chairman then called upon the Cabinet Member to respond.

Councillor Gooding thanked Mr Stubbings for his question. He stated that:

This seemed to be a growing problem right across Essex and was not unique to Alderton School. The school has been extended within recent years and there have been changes to the access and considerable time has been spent developing travel plans. However, each school is unique and it would be useful if the governors of the school were to meet with local residents to seek a resolution.

In response to the specific questions raised by Mr Stubbings the Cabinet Member replied that he did not have the power to insist where parents parked their cars on the highway. He added that the use of taxpayers money, in this instance, was for the provision of education and not for the building of car-parks. However, should the school seek a solution and be prepared to fund it from their resources, and if that required planning permission, then the Council would assist them in such an application if at all possible.

b) Ms Alex Robinson, a resident of Finchingfield

'We have submitted a petition to the Council regarding the proposed works to Finchingfield Bridge due to start in July this year. The petition asks for the Council to reassess their plans with particular regard to providing a temporary crossing for the four (or more) months of the proposed work, and to ensure that the bridge retains its current historic form as the heart of, arguably, the most picturesque village in the County.

We were led to believe from a press release in August 2015 that this was a bridge strengthening activity. Scraps of information since then have led us to believe that this is a bridge demolishing and widening activity. We can only assume that this is to ease and speed up the passage of Heavy Goods Vehicles through the village. We have made repeated requests to the Highways Department to open a dialogue with us. This has not happened.

Local feelings are now very strong. We fear a four-month closure, during harvest time, will decimate our fragile rural businesses and bring chaos to the surrounding lanes. We also fear that when the work is complete, the historic vista, that Finchingfield is so famous for, will be destroyed forever.

Therefore I speak with the voice of over 2,800 people who have signed the petition when I ask if the Council will now please consider:

Firstly, accepting that closing the bridge for four months and implementing a fifteen-mile diversion from one side of the village to the other, is an unfeasible option.

Secondly, we ask you to bring clarity to the situation and fully answer the Freedom of Information request we made back in August 2015 to publish all relevant plans with

costings which we hope will explain why this work is being done and how the local community will benefit.

And finally, we ask you to work with us, and to convene a special panel or Scrutiny Committee to review the current proposals and to fully take into account the voice and needs of the local community.'

Councillor Johnson thanked Ms Robinson for her question and for the petition that had been previously submitted. Before answering the question he explained the reason why the bridge needed to be repaired. He stated:

'The bridge has been assessed as a weak structure that is steadily deteriorating. Recent investigations have also shown that the bridge has limited foundations and unless we act, the bridge will remain vulnerable.

The Council has a responsibility to plan ahead to protect the bridge from emergency work in the future. All our early plans and investigations have been shared widely with the community and are available online.

We have listened to the concerns and feedback raised at the public meeting in November and the opinions and views that have continued to be shared with us since that time.

I am glad to say we have been meeting with specialist engineers to review the original outline plans, always stressing that any plan must respect the scenic quality of the area which we recognise is valued widely by those that live in Finchingfield and those that come to visit. We are pleased to say that we are preparing to share these plans at a public exhibition later this month.

Lastly, I would like to clear up a few myths that have grown up around the skeleton plans that were shared earlier last year. Rumours of a total bridge demolition are not true. The myth of extensive bridge widening to facilitate two-way traffic is not true. An assertion that there is an agenda to increase vehicle speeds and aid the passage of HGV traffic is also not true.

We simply have a bridge we must responsibly and respectfully make fit for the future.

I trust this goes some way to answering your questions today and I hope that you are able to attend the public exhibition later this month.'

The Chairman formally opened the meeting.

The Chairman reminded Members that the meeting would be recorded and broadcast live over the internet.

1. Apologies for Absence

Apologies for absence were received on behalf of Councillors W Archibald, D Blackwell, G Butland, T Durcan, M Hoy, M McGeorge and J W Pike.

2. Declarations of Interest

The Chairman reminded Members of the advice they had been given by the Monitoring Officer concerning arrears of Council Tax outstanding for two months or more. He also drew attention to the note prepared and circulated by the Monitoring Officer concerning declarations of interest appropriate to the budget debate.

Councillor Walsh declared a personal interest in relation to Finchingfield bridge as he was a local resident.

Councillor Barker declared an interest in relation to agenda item 7, the Draft Replacement Waste Local Plan, as she was the Cabinet Member responsible at Uttlesford District Council and responded to the consultation.

Councillor Abbott declared an interest in relation to agenda item 7, the Draft Replacement Waste Local Plan, as he had taken part in the consultation exercise as a member of Braintree District Council and Rivenhall Parish Council.

3. Minutes of the meeting held on 8 December 2015**Resolved:**

That the minutes of the meeting held on 8 December 2015 be approved as a correct record and signed by the Chairman.

4. Chairman's Announcements**The Chief Executive**

The Chairman welcomed Mr Gavin Jones to his first meeting as Chief Executive of the County Council.

Journalism Students

The Chairman welcomed Multimedia Journalism students and their Tutor from Essex University to the meeting who were present in the public gallery to observe the budget debate.

New Year's Honours

The Chairman informed Members that there had been twenty-eight residents of Essex who had received Honours from Her Majesty at the New Year. The Chairman particularly wished to congratulate Lorraine King, Civic Services Officer, on having been made a Member of the Royal Victorian Order, an award given by the Queen to people who have provided personal service to the Sovereign and the Royal Family.

ADEPT President's Special Recognition Awards 2016

The Chairman invited Councillor Hirst, Cabinet Member for Planning and the Environment, to address Council.

Councillor Hirst informed Members that the Council had been awarded, by the Association of Directors of Environment, Economy, Planning and Transport (ADEPT), the President's Special Recognition Award for flood resilience, in recognition of the work of the Essex Flood Partnership Board arising from the Canvey Island flooding in July 2014.

The Chairman received the award on behalf of the Council.

5. Presentation of Petitions

The Chairman received petitions:

- concerning a zebra crossing in South Benfleet, and
- for road repairs on Concord Road, Canvey Island, both presented by Councillor Howard.

The Chairman passed the petitions to the Cabinet Member for Highways Delivery.

6. The Budget Report 2016/17

The Council received the Report on the Budget 2016/17:
Appendix A - Revenue Budget 2016/17 and Capital Programme 2016/17;
Appendix B - 2016/17 Prudential Indicators, TMS and MRP Policy;
Appendix C – Pay Policy Statement;
Appendix D – Equality Impact Assessments and
Budget Book amended pages 8, 15, 57, 58 and 63.

The recommendations as set out in the Report and amended by the 'Addendum Revenue Budget 2016/17 and Capital Programme 2016/17' were moved by the Leader, Councillor Finch, and seconded by the Cabinet Member for Finance, Councillor Spence.

It was moved by Councillor Young and seconded by Councillor Henderson that the motion be amended as follows:

- '1) An additional £250,000 to pay for 'Careers Direct'; an early intervention scheme designed to offer mobile, adaptive, and targeted careers advice for pupils studying at year nine level or above (staff costs), subject to increasing the budget for Skills in the Deputy Leader, Economic Growth, Waste and Recycling portfolio by £250,000 and reducing the budget for Essex initiatives in the Leader portfolio by an equivalent amount.
- 2) An additional £1,000,000 (one off) to create the Fuel Poverty Alleviation Fund, providing targeted, needs based measures to reduce fuel poverty. The programme will aim to insulate up to 2,500 homes subject to increasing the budget for Other operating costs by £1,000,000 funded by a necessary adjustment to the earmarked revenue Innovation Fund reserve being recommended to the Council.
- 3) A one off £700,000 Capital fund to pilot a cycling innovation project, focused on a single town. This will comprise of infrastructural improvements (bike hangers, pump stations etc.) subject to increasing the capital programme in the Infrastructure and Highways Delivery Portfolio and funded by a necessary adjustment to the earmarked revenue Innovation Fund reserve being recommended to the Council.
- 4) A £50,000 targeted, three-year advertising campaign linked to proposal 3, subject to increasing the budget for Transport, Planning and the Environment by £50,000 for 2016/17 only and funded by a necessary adjustment to the earmarked revenue Innovation Fund reserve being recommended to the Council. This amendment will have an on-going impact to be added to the Medium Term Resource Strategy for action to be identified to determine a permanent funding solution.
- 5) An additional £115,000 for two dedicated cycling officers within the planning department, tasked with ensuring that applications for new developments meet certain cycling friendly requirements, subject to increasing the budget for Transport, Planning and the Environment by £115,000 and funded by a necessary adjustment to the earmarked revenue Innovation Fund reserve being recommended to the Council. This amendment will have an on-going impact to be added to the Medium Term Resource Strategy for action to be identified to determine a permanent funding solution.
- 6) An additional £3,230,000 to reverse reductions in funding for local highway panels, Capital spend, subject to increasing the capital

programme in the Infrastructure and Highways Delivery Portfolio by £3,230,000 and funded by a necessary adjustment to the Non carriageway assets capital block in the Infrastructure and Highways Delivery Portfolio capital programme of the same amount.

- 7) An Additional £100,000 to pay for a Stop Smoking Support Services (SSSS) engagement scheme targeted at pupils studying at further education level on an ongoing basis, subject to increasing the Communities and Healthy Living portfolio by £100,000 and reducing the budget for Communications in the Leader portfolio by an equivalent amount.
- 8) An Additional £100,000 to pay for an Essex-wide communications campaign (advertising, social media, website etc.) designed to draw attention to Stop Smoking Support Services (SSSS) operating throughout the County on an ongoing basis. Subject to reappportioning £100,000 from general communications 3rd party spend to this proposal within the Communications budget in the Leader portfolio.
- 9) An additional £50,000 to pay for a one-off consultation report, working with various partners to make recommendations on how to improve pay equity at ECC. Subject to increasing the HR budget in the Corporate Services portfolio by £50,000 and funded by a necessary adjustment to the earmarked revenue Innovation Fund reserve being recommended to the Council.
- 10) An additional £50,000 to pay for a one-off report evaluating current highway maintenance/repair procedures, focusing on technical innovation with a forward thinking vision. The report will particularly look at flexibility, evaluation, early intervention strategies and the potential for devolved responsibility. Subject to increasing the Asset Management Planning budget in the Infrastructure and Highways Delivery portfolio by £50,000 and funded by a necessary adjustment to the earmarked revenue Innovation Fund reserve being recommended to the Council.
- 11) An additional £25,000 to pay for a one-off report investigating the potential to devolve responsibility for street lighting and kerbside grass maintenance to district/borough councils. Subject to increasing the Asset Management Planning budget in the Infrastructure and Highways Delivery portfolio by £25,000 and funded by a necessary adjustment to the earmarked revenue Innovation Fund reserve being recommended to the Council.'

It was moved by Councillor Mackrory and seconded by Councillor Whitehouse that the motion be amended as follows:

'Supporting Essex's young people

- Increase of £500,000 in the budget provision for Youth Services (Education and Lifelong Learning portfolio) for the provision of youth

service projects, to be financed by a withdrawal from the Innovation Reserve in 2016/17 and thereafter added to the Medium Term Resources Strategy for action to be identified to determine a permanent funding solution.

- Increase of £500,000 in the budget provision for Child and Adolescent Mental Health Services (Children and Families portfolio), to be financed by a withdrawal from the Transformation Reserve in 2016/17 and thereafter added to the Medium Term Resources Strategy for action to be identified to determine a permanent funding solution.
- Increase of £30,000 in the budget provision for Access to Education (Education and Lifelong Learning portfolio) for a consultation regarding Post 16 transport costs to enable young people from low income families to continue in education. The increase in this policy budget is to be financed by a withdrawal from the Transformation Reserve in 2016/17.

Investing in our infrastructure and keeping Essex safe

- Increase the 2016/17 capital programme provision for Local Highways Panels (Infrastructure and Highways Delivery portfolio) by £4m. This will be allocated to individual panels, to bring their total funding up to the 2015/16 level (i.e. up to a total of £8m).
- In addition, increase the 2016/17 capital programme provision for Local Highways Panels (Infrastructure and Highways Delivery) by a further £2m to support more significant schemes proposed by the Panels.
- The additional £6m referred to above will be funded by a corresponding reduction to the capital programme provision for Highways Infrastructure (reducing the total provision from £66.258m to £60.258m in 2016/17).'

Upon being put to the meeting the amendment moved by Councillor Young and seconded by Councillor Henderson was declared to be lost.

Upon being put to the meeting the amendment moved by Councillor Mackrory and seconded by Councillor Whitehouse was declared to be lost.

In accordance with Standing Order 16.18 (Voting on budget decisions) the Motion as amended by the 'Addendum Revenue Budget 2016/17 and Capital Programme 2016/17' was put to a division by name and carried by 44 votes for, 16 against and 7 abstentions.

Those voting for the Motion were Councillors:

J F Aldridge
S Barker
R L Bass
K Bentley
R G Boyce

I Grundy
C Guglielmi
A M Hedley
R Hirst
P Honeywood

M Maddocks
M McEwen
V Metcalfe
A Naylor
Lady Newton

A Brown	R C Howard	M J Page
M Buckley	N Hume	C Pond
S Canning	A J Jackson	J M Reeves
J Chandler	E C Johnson	C Seagers
P Channer	J G Jowers	J Spence
T Cutmore	J Knapman	K Twitchen
D Finch	S Lissimore	S Walsh
R Gadsby	J Lodge	R G Walters
A Goggin	D Louis	A Wood
R J Gooding	R A Madden	

Those voting against the Motion were Councillors:

B Aspinell	D Harris	S Robinson
K Bobbin	I Henderson	K Smith
K Clempner	T M A Higgins	A Turrell
M Danvers	D J Kendall	J Whitehouse
J Deakin	M Mackrory	J A Young
M D Fisher		

Those abstaining were Councillors:

J Abbott	A Erskine	J Huntman
A Bayley	K Gibbs	N Le Gresley
M Ellis		

Resolved:

Revenue and Capital Budget:

1. The net revenue budget requirement to be set at **£861.4m** for 2016/17 – Appendix A (page 15)
2. The net cost of services to be set at **£934.8m** for 2016/17 – Appendix A (page 15) and that in consequence the budget book appended to the report be adopted and amended as set out in paragraphs 3.4- 3.7 inclusive.
3. The total council tax requirement be set at **£570.2m** for 2016/17 – Appendix A (page 15).
4. That council tax be increased by 1.99% together with the levy of a 2% 'social care precept'. Therefore the Essex County Council element of the council tax for charge for a Band D property in 2016/17 will be **£1,130.13**. A full list of bands is as follows:

Council Tax Band	2015/16 £	2016/17 £
Band A	724.50	753.42
Band B	845.25	878.99
Band C	966.00	1,004.56
Band D	1,086.75	1,130.13
Band E	1,328.25	1,381.27
Band F	1,569.75	1,632.41
Band G	1,811.25	1,883.55
Band H	2,173.50	2,260.26

5. That Council approve the council tax for each category of dwelling and the precepts on each of the council tax billing authorities for 2016/17, together with the final tax base, as set out in the table below.

Billing Authority	2016-17 Final Tax Base Band D Equivalent	2016-17 Gross precept £000
Basildon	58,577	66,200
Braintree	50,667	57,260
Brentwood	31,790	35,927
Castle Point	29,722	33,590
Chelmsford	63,234	71,463
Colchester	60,496	68,368
Epping Forest	52,258	59,058
Harlow	24,420	27,598
Maldon	23,456	26,508
Rochford	30,566	34,544
Tendring	44,908	50,752
Uttlesford	34,451	38,934
Total for ECC	504,545	570,201

6. That Council agree to the proposed total schools budget of **£539.2m** for 2016/17 as set out on Appendix A (page 12), which will be funded by the Dedicated Schools Grant.
7. That the underlying balance on the General Balance be set at **£60.4m** as at 1 April 2016 after the proposed drawdown of **£19.4m** as prescribed in Appendix A (page 63).
8. That the capital payments guideline be set at **£251.9m** for 2016/17.

9. That for the purposes of section 52ZB of the Local Government Finance Act 1992 the Council formally determines that the increase in council tax is not such as to trigger a referendum.

Prudential Indicators, Treasury Management Strategy and Minimum Revenue Provision for Debt Repayment Policy:

10. That 2016/17 - 2018/19 Prudential Indicators and limits, together with updated limits for 2016/17 be as set out in Appendix B.
11. That Treasury Management Strategy for 2016/17 be as set out in Appendix B.
12. That the policy for making a prudent level of revenue provision for the repayment of debt (the Minimum Revenue Provision policy be as set out in Appendix B.

Pay Policy Statement:

13. That The Pay Policy Statement for 2016/17 be as set out in Appendix C.

7. The Draft Replacement Waste Local Plan

Councillor Hirst, the Cabinet Member for Planning and the Environment, presented a report on the Essex and Southend-on-Sea Waste Local Plan – Proposed Submission and the Amendment that had been circulated to Members.

Councillor Abbott raised two matters that he believed required correction and it was agreed by Councillor Hirst that officers should seek clarification for possible amendment after the meeting.

Subject to any such subsequent amendments of fact the recommendations were moved by Councillor Hirst and seconded by Councillor Twitchen and it was

Resolved:

1. That Council agree to the publication, for pre-submission consultation, of the Replacement Waste Local Plan under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 in the form submitted to it (Appendix 1); and
2. That Council agree the Replacement Waste Local Plan be approved for submission to the Secretary of State for independent examination under section 20 of the Planning and Compulsory Purchase Act 2004.

8. Council Issues

Councillor Finch, the Leader of the Council, presented the report of matters reserved to Council.

Councillor Finch announced the following changes to the Cabinet:

- Councillor Hirst was to stand down from his role on Cabinet,
- Councillor Brown was to be the Cabinet Member for Corporate, Communities and Customers,
- Councillor Butland was to be the Cabinet Member for Health,
- Councillor Johnson was to be the Cabinet Member for Highways and Transport Delivery.

The Leader also advised Council that Councillor Barker was appointed to the Essex Fire Authority to replace Councillor Butland.

Resolved:

Appointment of Director of Adult Social Services

That the Constitution be amended with effect from 1 April 2016 so that the relevant part of paragraph 4.4 which reads:

Executive Director for People Commissioning	Director of Children's Services appointed under Section 18 of the Children Act 2004 and Director of Adult Social Services appointed under section 6 of the Local Authorities Social Services Act 1970.
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Is replaced with the following text:

Executive Director for People Commissioning	Director of Children's Services appointed under Section 18 of the Children Act 2004.
Director for Adult Operations	Director of Adult Social Services appointed under section 6 of the Local Authorities Social Services Act 1970.

Appointment of Returning Officer

That Gavin Jones, Chief Executive, be appointed as Essex County Council's Returning Officer with effect from 1 April 2016.

Minor Update to Constitution: Local Government (Contracts) Act 1997

That a new paragraph 15.3.2(ix) be inserted into the Constitution (delegations to the Executive Director for Corporate and Customer Services):

- (ix) To authorise the making and issue of any formal documents and to authenticate documents on behalf of the Council.'

9. Cabinet Issues

Councillor Finch, the Leader of the Council, presented a report concerning six matters considered by Cabinet since the last Council meeting.

The report of Cabinet Issues was received and adopted.

10. Adjournment

With the agreement of Council the Chairman adjourned the meeting for luncheon at 13:00pm.

The meeting reconvened at 13:45pm.

11. Written questions to the Leader of the Council and Cabinet Members

The published answers to the 16 written questions submitted in accordance with Standing Order 16.12.1 were noted.

The following supplementary questions were asked as a result of having received a written reply:

- (1) Councillor Pond asked Councillor Bentley, the Cabinet Member for Economic Growth, Waste and Recycling, if the search for a market for the Refuse Derived Fuel would continue and, if so, would the Lee Valley Greenhouse Industry be considered as a suitable outlet?

The Cabinet Member replied that the Council was going through a commissioning phase of the Tovi Eco Park. The RDF that was being produced was being disposed of under the terms of a short-term contract but the Council was seeking to enter into a long-term contract and would encourage any company to apply to be considered for the contract. If that would suit the Lee Valley Greenhouse Industry he was sure they would come forward.

- (2) Councillor Kendall asked Councillor Johnson, the Cabinet Member for Highways Delivery, if he could have an answer to the questions he had asked, if not now as a response to his supplementary question, then later in writing.

The Cabinet Member replied that there was no one authority responsible for the maintaining and repairing of grass verges. The amount spent by the County for the current year was £2.7million and the budget for the forthcoming year has remained the same. However, local arrangements may be made and so the situation may vary from place to place as may the total spend.

- (3) Councillor Kendall asked Councillor Johnson, the Cabinet Member for Highways Delivery, when Members would be given the timetable for the introduction of LED lighting.

The Cabinet Member replied that all Members would be given the schedule for the introduction of LED lighting as soon as it became available but as soon as he knew when Brentwood would be having its LEDs he would inform Councillor Kendall.

- (4) Councillor Danvers asked Councillor Finch, the Leader of the Council, if he would keep a watching brief on the process of the public consultation on junction 7A.

The Leader stated that he would be happy to do so.

- (5) Councillor Le Gresley asked Councillor Johnson, the Cabinet Member for Highways Delivery, if he could provide the 'fault level' as a percentage specifically for Wickford Division and how many lights had been out of action for more than seven days.

The Cabinet Member replied that problems with the repair of lights, particularly those of over seven days were usually due to problems with the electricity supply. The Council's fault levels were 2% in Essex overall but he would keep an eye on the percentages as they varied throughout the year. He added that the figures were published quarterly.

- (6) Councillor Smith asked Councillor Finch, the Leader of the Council, if he could provide an approximate figure of how much the funding from the Government had saved the people of Essex.

The Leader replied that he did not have that figure to hand but he would provide it to Councillor Smith after the meeting.

- (8) Councillor Harris asked Councillor Gooding, the Cabinet Member for Education and Lifelong Learning, what measures had been taken to recruit a school crossing patrol officer.

The Cabinet Member replied that there did appear to be a recruitment problem and the Council needed to solicit some local support in order for the problem to be resolved.

- (9) Councillor Whitehouse asked Councillor Johnson, the Cabinet Member for Highways Delivery, if he could quantify what proportion of all broken street lights can be 'repaired within the budget available'?

The Cabinet Member replied that he did not have that figure to hand but he did understand that there may be local variations. He would be pleased to discuss specific figures with Councillor Whitehouse after the meeting.

Councillor Whitehouse, with regard to question (10), declared an interest as a Member of Epping Town Council and Epping Forest District Council and a resident of St John's Road, Epping.

- (10) Councillor Whitehouse asked Councillor Finch, the Leader of the Council if he agreed the importance of following up the meeting of the 29 January which was called to conclude the matter.

The Leader replied that this particular site was progressing well and he believed that a deal, satisfactory to both parties, was close.

- (11) Councillor Bayley asked Councillor Finch, the Leader of the Council, if he would ensure that Members were informed when the Corporate Scrutiny Task and Finish Group to consider the Members Enquiries Service was established so he could take his comments there.

The Leader replied that he would do so.

- (12) Councillor Le Gresley asked Councillor Gooding, the Cabinet Member for Education and Lifelong Learning if it would be helpful if there could be a meeting to see if anything could be done to protect our children.

The Cabinet Member replied that he would be happy for there to be established a cross-party working party to examine the issue.

- (13) Councillor Robinson asked Councillor Finch, the Leader of the Council, if he did not agree that keeping properties empty for six months cost the Council a lot of money and asked if all the District Authorities had responded positively to the idea of making the best use of public sector land so as to avoid loss of revenue from empty properties?

The Leader replied that all the District Authorities had replied. He also assured Councillor Robinson that he was determined that when there was a vacant property the Council needs to know as soon as possible why, what opportunities for its use may arise, what were the barriers to disposal and how income could be maximised. However, in some cases the Council may be retaining the property to provide a future opportunity such as, for example, housing development for people with learning difficulties.

- (14) Councillor Danvers asked Councillor Bass, the Cabinet Member for Infrastructure, if he could specify a timetable for publishing and public consultation.

The Cabinet Member replied that he understood that the Leader of the Council had already stated that he would keep a close eye on the consultation and he believed that should be sufficient reassurance.

- (16) Councillor Young asked Councillor Spence, the Cabinet Member for Finance, if he could give more information if there would be a rounded approach to addressing the housing need and if consideration would be given to key-worker accommodation and would that include prioritisation for teachers, those with special needs and their carers?

The Cabinet Member replied that there would soon be made available the Council's strategy that would explain in full the approach to provide affordable living, maximise returns and free up public-sector land for appropriate use.

12. Questions of the Leader of the Council, Cabinet Members and Committee Chairmen

1. Councillor Smith asked Councillor Johnson, the Cabinet Member for Highways Delivery, if he could ensure that potholes were repaired on a very busy road in his Division.

The Cabinet Member replied that if Councillor Smith needed to provide him with details he should do so after the meeting. But he should contact Members Enquiries in the first instance.

2. Councillor Kendall asked Councillor Gooding, the Cabinet Member for Education and Lifelong Learning, if he could explain how careers advice provided in Essex schools was being monitored and how often was the monitoring undertaken?

The Cabinet Member replied that careers advice given in schools was monitored but given the detail required to answer the question properly he would write to Councillor Kendall after the meeting.

3. Councillor Pond asked Councillor Finch, the Leader of the Council, if he would note that Epping Forest District wish to assume all powers within their area from the North Essex Parking Partnership at a guaranteed nil cost to the County. Would the Leader facilitate such an arrangement?

The Leader replied that discussions on this matter were already underway with the Leader of Epping Forest District Council and he assured Councillor Pond that he would keep him informed.

4. Councillor Robinson, noting that in the budget debate Councillor Finch, the Leader of the Council, asked why on Budget-setting all the Opposition parties did not contribute to the process, asked if Cabinet Members would in future be prepared to submit all of their proposals and decisions to pre-scrutiny.

The Leader replied that what he had meant was that amendments to the budget that had been submitted and voted on today had been minor. What he had been suggesting was that throughout the year and through the scrutiny process the Opposition could bring forward reports and ideas and if they had merit the Administration could build them in to the subsequent budget-setting process.

5. Councillor Abbott asked Councillor Johnson, the Cabinet Member for Highways Delivery, concerning the flood alleviation in his Division in Witham, if he could give a commitment to a firm timescale for the completion of the work.

The Cabinet Member replied that he was unable to give such a commitment or timetable as these works were not the only ones being planned or undertaken.

6. Councillor Abbott asked Councillor Hirst, the Cabinet Member for Planning and the Environment, if he was aware that many members of the public found it difficult to locate planning matters on the Council's website and equally difficult to make comments or objections. Could he also explain why the Council did not publish the comments or objections of the consultees?

The Cabinet Member replied that he would examine the issues raised.

7. Councillor Bobbin asked Councillor Johnson, the Cabinet Member for Highways Delivery, if he was able to provide him with a detailed list of what land was owned by either the County Council or the Local Council in Basildon. There appeared to be a considerable amount of confusion and he had been asking for the information for four-and-a-half months without success.

The Cabinet Member replied that if Councillor Bobbin was to put his request in an email, detailing the areas he was interested in, then he would ensure that officers responded.

8. Councillor Walters asked Councillor Bass, the Cabinet Member for Infrastructure, if he had become aware of the considerable numbers of delays recently on the crossings between Kent and Essex despite improvements in tolling arrangements. He asked what was the latest update on the proposal to build another crossing.

The Cabinet Member replied that the Government had published an Options Paper for consultation and replies by 24 March 2016. The focus was on 'Option C' but with three variants to the route on the Essex side of the

crossing. The recent disruption to the crossing has demonstrated again that we need the new crossing (including a tunnel) as soon as possible.

9. Councillor Aspinell asked Councillor Johnson, the Cabinet Member for Highways Delivery, what he would consider a decent time for lights to be still out of order following a traffic accident on a Route 1.

The Cabinet Member replied that he would hope and expect it would be no longer than seven days but frequently we are in the hands of the electricity companies.

10. Councillor Canning asked Councillor Hirst, the Cabinet Member for Planning and the Environment, when would Members be getting a briefing on the proposed new nuclear power station at Bradwell?

The Cabinet Member replied that there was a Member Development Session due to take place on 16 February would look at the possible developments at this very early stage.

11. Councillor Knapman asked Councillor Johnson, the Cabinet Member for Highways Delivery, if he would wish to comment on the Epping Forest District's proposal to provide £100,000 match-funding for the Local Highways Panel.

The Cabinet Member replied that he was very happy about it.

13. Questions of the representative of the Essex Police and Crime Panel

1. Councillor Robinson asked Councillor Jowers, the representative of the Essex Police and Crime Panel, if he shared his concerns that, following financial cuts to their budgets, the police were 'off-loading' some of their responsibilities to District Councils who may not be able to cope.

Councillor Jowers replied that he believed that the outcome of the recent meeting of the Police and Crime Panel where this was discussed was satisfactory

2. Councillor Le Gresley asked Councillor Jowers, the representative of the Essex Police and Crime Panel, if the Police Constable could be held to account should he not keep his word and use available funding for community policing?

Councillor Jowers replied that the operational decisions of the Chief Constable were not subject to the scrutiny of the Essex Police and Crime Panel but the Panel had asked the Police and Crime Commissioner to pass on its concerns and this he had done.

3. Councillor Smith asked Councillor Jowers, the representative of the Essex Police and Crime Panel, if meetings at the local level could be reinstated?

Councillor Jowers suggested that Councillor Smith attend a meeting of the Essex Police and Crime Panel and ask that question of the Police Commissioner directly.

14. To note the reports of the Essex Fire Authority's meetings of 2 December 2015 and 13 January 2016 and to ask questions of the Authority's representative

The reports of the meetings of 2 December 2015 and 13 January 2016 were received.

1. Councillor Young asked Councillor Hedley, the representative of the Essex Fire Authority, concerning the consultation by the Fire Service with particular reference to Colchester and the general impact on the surrounding fire stations.

Councillor Hedley replied that that the consultation had just gone out and there were three options. No decisions had been taken and until they are taken he could not comment on the shape of the fire service and what impact there might be. However, the Retained Service that currently protects 54% of Essex has a very good record and other areas such as Braintree and Saffron Walden which have a retained service have not suffered any losses. The retained firefighters have the same training and equipment and they maintain their competencies at the same level as other firefighters.

2. Councillor Harris asked Councillor Hedley, the representative of the Essex Fire Authority, if he would convey to the Essex Fire Authority the concerns of people in Colchester about all of the options outlined in the consultation some of which appeared to lead to the potential loss of hundreds of firefighters.

Councillor Hedley replied that Colchester is represented on the Essex Fire Authority through which these concerns could be expressed and none of the options in the consultation suggest that hundreds of firefighters in Colchester would be losing their jobs.

3. Councillor Whitehouse asked Councillor Hedley, the representative of the Essex Fire Authority, if he agreed that residents in his Division were fortunate to be served by retained firefighters from Epping who are a very dedicated and hardworking team. However, he was aware than in some areas it was not always easy to recruit retained firefighters and he had seen figures from the Chief Fire Officer which meant that the availability of retained appliances is not always 100%. Councillor Whitehouse wished to check with Councillor Hedley that the Essex Fire Authority would be looking very closely at those issues when it considered the consultation responses.

Councillor Hedley replied that the complement of retained firefighters available throughout the County was constantly under review, and the lead

Member on the Essex Fire Authority dealing with this aspect was Councillor Guglielmi.

There had been a number of meetings to try and enhance the terms and conditions of the retained or on-call firefighters, some of whom were contracted to give 120 hours service per week.

He stated that he was unaware of any particular pump that was available less than 90% of the time. There were issues sometimes throughout the day, but usually there is a response within 10 minutes for the first pump, and whole-time staff moved around to keep retained pumps on the run during periods where there may be a shortage of retained staff.

The Fire Service was also considering the arrangements for 'mixed crewing' as, for example, recently, in Dovercourt, where there is one pump the whole time, one was on-call but because they were one short of a rider neither pump could go out. This is because the union would not allow retained firefighters to ride on a whole-time pump. This, in his opinion, was a practice that needed to be addressed.

The meeting closed at 14:31

Chairman
10 May 2016

Motions under Standing Order

16.11.2

1. Academy Schools

Moved by Councillor Julie Young and seconded by Councillor Dave Harris.

This authority values and recognises the hard work that teachers, support staff and governors contribute on a daily basis across the County and their devotion to maintaining the highest standards of learning. We do however; have concerns that governance structures in Essex academies are not fit for purpose. More needs to be done to ensure that the performance of academies is properly scrutinised and that the institutions are meeting the needs of the communities they serve.

The Labour Group is committed to the concept of community driven schools that provide high quality learning environments irrespective of economic background or ability. Education is a fundamental right and every child should have the best start in life, without being subject to a postcode lottery. The future of Essex children should be left to choice, not chance. Opportunity, not availability.

In the spirit of local decision making, Essex should act as a pilot authority to reinstate democratic accountability for local academy schools.

Therefore, this authority commits to:

- Challenge current government plans to force academisation upon Essex families.
- Further lobby the Secretary of State to review governance and financial accountability structures in the existing Essex academies programme to ensure that the importance of scrutiny and due process is recognised at every level.
- Review the permanent exclusions system, as well as the admissions process, to ensure that vulnerable pupils are not being targeted in the interests of performance.
- Value and commit to protect the wealth of experience and local knowledge that comes from LEA appointed governors and elected parent governors to maintain their good work on governing bodies across the County.
- Commit to supporting teachers and governors in their efforts to raise attainment in Essex schools.

2. EU Referendum

Moved by Councillor Stephen Canning and seconded by Councillor Malcolm Buckley

‘This Council welcomes the fact that the Government is providing the people of Essex with the opportunity to participate in an In/Out Referendum on the EU, in line with its pre-election promise.

It resolves accordingly that this be left to the judgement of the people rather than the County Council itself expressing a corporate view on the issue.’

3. European Union (EU) Referendum

Moved by Councillor Nigel le Gresley and seconded by Councillor Jamie Huntman

‘Given the massive additional costs to this Council and Essex residents of having to comply with such EU legislation as the Procurement Rules, Agency Working Time Directive, the Energy Efficiency Directive, Waste Framework Directive and several other EU laws that impact directly on local people;

Given the likely sanction cost to this Council for any failure in complying with such EU legislation;

Given also the potentially crippling impact on various public services provided by local authorities that may result from the proposed EU/USA 'Transatlantic Trade and Investment Partnership' (TTIP) and highlighted by both the LGA and UNISON, among many others;

This Council believes that the removal of such burdens would significantly enhance its ability to fulfil its obligations to Essex residents, thereby improving services to them, and accepts that this would only be possible if Britain was outside of the European Union and regained control of its laws.’

4. Delivering First Class Services

Moved by Councillor John Spence and seconded by Councillor Kevin Bentley

‘Delivering cost effective, first class services to the people of Essex is the cornerstone of the work of this County Council with particular concern for children, the elderly and the vulnerable. This will require us to continually adapt our services for the needs of the modern world and fast changing technologies. It also requires us to work creatively and imaginatively with communities and other partners.

We invite all parties to join us in committing to innovation; bringing forward new ideas that enable us to preserve the best traditional services, adapt them to meet modern demands and offer the best value to the taxpayers of Essex.'

5. Concerns Regarding the Education White paper

Moved by Councillor Mike Mackrory and seconded by Councillor Jon Whitehouse

'This Council meeting notes:

- the high quality of schools in Essex, where 82% of schools are now good or outstanding;
- the excellent relationship between the Council and schools, all focused on delivering the best education possible so that each of the young people of Essex can attain their full potential;
- the invaluable role of elected parent governors and local authority governors, acting as "critical friends" to both support head teachers and hold them to account; and
- the relatively small number of Primary/Junior/Infant schools in Essex that have thus far chosen to become an academy.

This Council therefore notes with great concern the recently published Education White Paper "Educational Excellence Everywhere", including proposals which will:

- force all schools to become academies, irrespective of each school's wishes;
- transfer the land and buildings of such schools from being owned by local residents through their local authority to central ownership by the Secretary of State;
- remove the requirement for schools to elect parent governors;
- leave local authorities with the responsibility for various aspects of the education system, including provision of sufficient school places, whilst apparently "freeing schools from local authority control"; and
- allow head teachers more flexibility in relation to using unqualified teachers.

This Council believes that the Education White Paper is fundamentally flawed, seeking to force onto schools the choices which Central Government believes are best for them but which they are not choosing to take for themselves, disguised as promoting choice and freedom, when there is no evidence that academy status always helps schools to deliver better education outcomes.

This Council further believes that forcing schools to become academies against their wishes is undemocratic and should be left to local people and local councillors to decide, and that the resulting education system will become ever more polarised and unsustainable, harming the life chances of a generation of young people.

This Council also notes that the Leaders of all the political groups at the Local Government Association have written to the Secretary of State expressing their serious concerns over these proposals.

This Council therefore resolves to ask the Leader of the Council to also write to the Secretary of State, as have other counties such as Hampshire, Oxfordshire and West Sussex, asking her to:

- think again about forcing schools to become academies, instead designing a system which allows academy and non-academy schools to co-exist in a sustainable way, to ensure school places and education quality can be delivered for all our young people;
- think again about allowing schools to remove elected parents from their governing bodies when we should be encouraging them in their role and influence in school management;
- think again about all of the other measures which collectively put at risk the quality of teaching and education outcomes.

This Council further resolves to ask the Chief Executive to write to all Essex MPs and Working Peers requesting their response to the White Paper and, for those who support the White Paper, asking them to demonstrate how the proposals will improve educational outcomes in Essex.'

Code of Member Conduct

Adoption of Revised Code of Member Conduct

The Council is required to have a Code of Conduct for Members. The Code sits alongside the Localism Act 2011 which requires Councillors to register and declare 'disclosable pecuniary interests'.

The current Code of Conduct was adopted at a meeting of the County Council in October 2012. The same code has also been adopted by the Essex Fire Authority. This was the first Code under the Localism Act 2011.

A review of the Code of Conduct has been undertaken by the Joint Standards Committee. The main proposed changes are set out below. Consultation has been undertaken with:

- All members of the County Council
- All members of the Essex Fire Authority
- The Statutory 'independent persons' appointed by Essex County Council under the Localism Act 2011.
- The Monitoring Officer of the Essex Fire Authority

No adverse comments were received as a result of the consultation. The main proposed changes are set out below:

A new provision against 'bringing the office of Councillor into disrepute'

The Joint Committee feel that this would be a useful general provision.

Simplification of the number of types of interests

The current Code defines 'pecuniary interests' 'other pecuniary interests' and 'personal interests'. It is proposed that in future there will be two types of interest: '**pecuniary interests**' – which are defined by the law and '**code interests**' – which are defined by the Code of Conduct.

Extension of the right to grant dispensations

The current rules allow the Standards Committee to grant a dispensation for pecuniary interests, but not for other types of interest. It is proposed that dispensations will in future be available for any kind of interest. Dispensations will only be granted if the Committee consider this appropriate.

Clarification around members' duty to comply with equality law

This change is proposed because the Monitoring Officer has received allegations where complainants have sought to argue that a decision taken by Councillors is a breach of the code because (they argue) the decision is discriminatory. The proposed amendment makes it clear that only a member's personal behaviour can

be a breach of the code. If people consider that a decision taken by the Authority is discriminatory then it should be considered via the proper channels rather than being considered as a code of conduct complaint.

Registration of tenders

- (i) At present the code requires immediate registration of tenders in which a member has an interest. It is proposed to amend this to say that tenders do not have to be registered until the deadline for submitting tenders. This is because tenders are normally submitted in private. It could harm competition if the fact that a company has tendered had to be placed on a public register before the deadline. Accordingly it is proposed to make it clear that tenders are not required to be registered until the deadline for submission.
- (ii) A change to correct an anomaly in the code. At present, tenders only have to be registered if the Councillor has part *ownership* of the organisation submitting the tender. Tenders do not have to be registered if the Councillor is a Director but not an owner. It is proposed to align the requirement to register tenders with the statutory requirement to register contracts.

Registration of contracts between Councillor and a company owned by the Council

At present Councillors have to register current and past contracts and tenders with the Authority but there is no requirement to register contracts with bodies controlled by the Authority. Essex County Council owns companies and it is quite possible that the number of companies controlled by the Council will increase. The Committee therefore proposed that Councillors should be required to register contracts and tenders made between (1) Councillors and their connected companies and (2) bodies controlled by their authority. It is important that Councillors know which bodies this applied to and a list of Council controlled bodies will be sent to Councillors annually.

Update the Nolan Principles in the appendix to the Code

The Nolan Principles are determined nationally by the Committee on Standards in Public Life. They are included in an appendix to the Code of Conduct. The national principles have been updated – each principle has the same name, but the narrative has been modernised. The appendix to the Code has been updated to reflect these changes. These changes also need to be reflected in paragraph 3.3 of the Constitution.

A new provision to explain that a breach of the ‘Nolan Principles’ is not a breach of the Code

A small number of complainants have sought to argue that an alleged breach of the Nolan Principles can be dealt with by the Standards Committee. That has never been the case - the Code of Conduct is required to be consistent with the Nolan Principles which are appended to the code for information. The Nolan Principles are not expressed as absolute obligations. The revised draft Code includes a new sentence to explain that this is the case.

Recommendation:

- (1) That the revised Code of Conduct appended to this report be adopted with effect from 11 May 2016.
- (2) That the current Code of Conduct continues to apply to conduct up to and including 10 May 2016.
- (3) That the Nolan Principles set out in Paragraph 3.3 of the Constitution be updated to reflect those in the appendix to the new Code of Conduct.

[DRAFT]

Localism Act 2011

**Promoting and Maintaining High Standards of
Conduct in Local Government**

CODE OF CONDUCT FOR MEMBERS

CODE OF CONDUCT FOR MEMBERS [DRAFT]

24.1 Introduction and Interpretation

- 24.1.1 This is the Code of Conduct for Members. The Localism Act 2011 requires the Authority to have a code of conduct which is consistent with the 'Nolan Principles' determined by the Committee on Standards in Public Life. These principles are set out in the Appendix to this Code. The Code is consistent with the Nolan Principles but any breach of the principles is not by itself a breach of the Code.
- 24.1.2 As a Member you are a representative of the Authority and the public will view you as such. Your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.
- 24.1.3 When words appear in **bold type** in this code they refer to a term which has been defined in paragraph 24.13.
- 24.1.4 This Code applies to all Members of the Authority including co-opted members of the Authority and its committees (including non-voting members). It is your responsibility to comply with the provisions of this Code.
- 24.1.5 You must comply with this Code whenever you act as a Member of the Authority or when you are representing the Authority – this includes postings to social media which relate to your role as a member.
- 24.1.6 When you act as a representative of the Authority on another body you must, when undertaking your role on that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other code of conduct or legal obligation to which you are subject as part of your role on that other body.

24.2 General Obligations

- 24.2.1 You must treat others with respect.
- 24.2.2 You must uphold the law.
- 24.2.3 You must:
- (i) ensure that your personal behaviour promotes good relations between people with different protected characteristics and is not such as may cause the Authority to discriminate unlawfully against any person under the provisions of the Equality Act 2010 or subsequent equality legislation;
 - (ii) not bully or intimidate or attempt to intimidate any person; or
 - (iii) not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.
- 24.2.4 You must not behave in way which would be likely to bring the office of Member of the Authority into disrepute.

24.3 Confidential Information

- 24.3.1 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
- (i) you have the consent of a person authorised to give it; or

- (ii) you are required by law to do so; or
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice and that third party has, before receiving the information, agreed not to disclose the information to any other person; or
- (iv) the disclosure is-
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the Authority.

24.3.2 You must not prevent another person from gaining access to information to which that person is entitled by law.

24.4 Conferring an Advantage or Disadvantage

24.4.1 You must:

- (i) not use or attempt to use your position as a Member improperly to confer on or to secure for yourself or any other person, an advantage or disadvantage - financial or otherwise;
- (ii) when using or authorising the use by others of the resources of the Authority,
 - i. act in accordance with the Authority's reasonable requirements; and
 - ii. ensure that such resources are not used improperly for political purposes (including party political purposes).

24.5 Publicity

24.5. You must have regard to any applicable Code of Practice on Local Authority Publicity made under the Local Government Act 1986.

24.6 Registration of Interests

24.6.1 Subject to 24.7 below you are required to register details of your **Disclosable Pecuniary Interests** and your **Code Interests**, within 28 days of becoming a Member (or being re-elected or reappointed) in the Authority's Register of Members' Interests.

24.6.2 **Code Interests** which fall only within paragraph 24.13.2 (vi) are not registrable.

24.6.2 You must keep your entry in the register of interests up to date by notifying the Monitoring Officer of any changes to your interests referred to above within 28 days of the change occurring.

24.7 Publication of the Register of Interests

24.7.1 The Monitoring Officer will arrange for the Register of Interests to be published on the Authority's website.

24.7.2 Where the nature of one or more of your interests is such that you and the Authority's Monitoring Officer consider that disclosure of details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation then copies of the Register available for inspection and any published version of the Register will not include details of the interest but may state that you have an interest, details of which have been withheld in accordance with this Code of Conduct.

- 24.7.3 You must notify the Authority's Monitoring Officer within 28 days of becoming aware of any change of circumstances which means that information excluded from the register under 24.7.1 is no longer sensitive information.
- 24.7.4 You must review your entry on the register of interests at least once in every calendar year and notify the Authority's Monitoring Officer of any changes.

24.8 Declaration of Interests at Meetings

- 24.8.1 For the purposes of this paragraph, a meeting means any meeting of the Authority including the Cabinet, any committee, sub-committee, joint committees, joint sub-committees or area panels.
- 24.8.2 Where any matter to be considered at a meeting of the Authority at which you are present relates to or may have an impact upon a body or matter in which you have a **Disclosable Pecuniary Interest** or a **Code interest**, you must disclose the existence and nature of that interest to the meeting.
- 24.8.3 In addition you must withdraw from the room where the meeting considering the business is being held and must not participate in any debate or vote on the matter unless you have received a dispensation from the Monitoring Officer or the Standards Committee if:
- (a) you have a **Disclosable Pecuniary Interest** in that business; or
 - (b) you have a **Code interest** which is one that a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 24.8.4 When declaring an interest at a meeting you need not disclose the nature of the interest if you and the Monitoring Officer have agreed that it ought not appear on the public register of interests, but you must otherwise comply with the rules about declarations of interest.

24.9 Cabinet Member Decisions

- 24.9.1 Where a report is presented to you and you have an interest which would prevent you from participating in a meeting which was considering it, you must take no action in relation to the report unless you have first obtained a dispensation from the Monitoring Officer or the Standards Committee.
- 24.9.2 If a report is presented to you and you cannot take the decision because you have an interest you must notify the Monitoring Officer of the interest and that you were unable to act. The Monitoring Officer will arrange for this to be recorded with the decision.

24.10 Disclosure of Interests in Discussions and Correspondence

- 24.10.1 If you have an interest in any matter which you would be required to declare at a meeting, and that matter is raised in any discussion or correspondence, whether in person, by telephone or email or otherwise, with any member, employee, contractor or agent of the Authority you:
- (i) must make a full disclosure of that interest at the outset of any discussions or correspondence, or as soon as the matter is raised; and
 - (ii) must not seek improperly to influence a decision about that matter.

24.11 Dispensations

24.11.1 The Authority's Monitoring Officer or the Standards Committee may, in the circumstances set out in 24.11.2, grant a dispensation which permits you to

- (i) remain in the room,
- (ii) speak,
- (iii) vote or make a decision

on a matter, notwithstanding that you have an interest in it. Any such dispensation must specify the period for which it has effect, which may not exceed four years.

24.11.2A dispensation may be granted by the Monitoring Officer or the Standards Committee if the person with authority to grant the dispensation:

- (i) considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- (ii) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- (iii) considers that granting the dispensation is in the interests of persons living in the Authority's area,
- (iv) considers that without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive, or
- (v) considers that it is otherwise appropriate to grant a dispensation.

24.12 Register of Gifts and Hospitality

24.12.1 You must, within 28 days of receipt, notify the Authority's Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted as a Member from any person or body other than the Authority.

24.11.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.

24.11.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

24.13 Definitions

24.13.1 In this Code the following phrases have the following meanings:

'body controlled by the Authority' means a company or similar organisation where the Authority owns a majority of the shares or the Authority is entitled to nominate a majority of the members or directors or any company owned by such a body.

'body in which the relevant person has a beneficial interest' means a firm in which you or your spouse or partner is a partner or a body corporate of which the relevant

person is a director (whether or not remunerated), or in the securities of which you or your spouse or partner have a beneficial interest

'disclosable pecuniary interest' is an interest defined as such by the Localism Act 2011 or regulations made thereunder.

24.13.2 You have a **'Code interest'** in matters falling within any of the descriptions which are not a **disclosable pecuniary interest**:

- (i) Any contract for goods, services or works which has not been fully discharged between you, your spouse or partner or a body in which the relevant person has a beneficial interest) and a **body controlled by the Authority**;
- (ii) Any contract with the Authority which has expired within the last 2 years and which was, when it was in force, a **disclosable pecuniary interest**.
- (iii) Any tender, bid or quotation submitted within the last 2 years to the Authority which would, if accepted, have amounted to a **disclosable pecuniary interest**. Tenders, bids or quotations are not required to be registered until 28 days after the last date for the submission of tenders, bids or quotations.
- (iv) Any body of which you are a member or in which you hold a position of general control or management and to which you have been appointed or nominated by the Authority;
- (v) Any other body of which you are a member or in which you hold a position of general control or management -
 - a. which exercises functions of a public nature;
 - b. which is directed to charitable purposes; or
 - c. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
- (vi) Any matter which might reasonably be regarded as affecting the well-being or financial position of:
 - (a) yourself
 - (b) a body in which you have a **Disclosable Pecuniary Interest** or a **Code interest**,
 - (c) a friend, relative or close associate

to a greater extent that the majority of other council tax payers or inhabitants of the electoral division affected by the decision.

24.13.3 Notwithstanding 23.12.4, an interest which is a **Disclosable Pecuniary Interest** is not a **Code interest**.

For guidance the following note summarises the statutory definition at March 2016. The Monitoring Officer will notify all Members and update this part of the code if the law changes.

A member has a Disclosable Pecuniary Interest if they or their partner have an interest of a description set out in paragraphs (1) to (7) below

In this context 'partner' means spouse, civil partner or a person the member is living with as a spouse or civil partner. Members only have to declare interests of their

partner to the extent that they know about them.

Disclosable Pecuniary Interests are:

- (1) Any employment, office, trade, profession or vocation carried on for profit or gain;*
- (2) Any payment or provision of any other financial benefit (other than from the Council) made or provided within the previous twelve months in respect of any expenses incurred by the member in carrying out duties as a Member, or towards election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;*
- (3) Any contract for goods, services or works which has not been fully discharged between the relevant person (or a body in which the relevant person has a beneficial interest) and the Council;*
- (4) Any beneficial interest in any land in the Council's area;*
- (5) Any licence of any land in the Council's area (alone or jointly with others) to occupy land for a month or longer;*
- (6) Any tenancy where to the Member's knowledge (a) the landlord is the Council and (b) the tenant is a body in which a relevant person has a beneficial interest;*
- (7) Any beneficial interest in securities of a body where:*
 - 1. that body (to the Member's knowledge) has a place of business or land in the area of the Council; and*
 - 2. either:*
 - (a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or*
 - (b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.*

Note that the Standards Committee has a practice of granting dispensations to members with respect to their or their partner's role in another public body.

CODE OF CONDUCT FOR MEMBERS - APPENDIX

THE NOLAN PRINCIPLES

1. Selflessness

Holders of public office should act solely in terms of the public interest.

2. Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

3. Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

4. Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

5. Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

6. Honesty

Holders of public office should be truthful.

7. Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Approval for Extended Absence

1. Councillor Joe Pike

Section 85 of the Local Government Act 1972 states that a member of a local authority who fails throughout a period of six consecutive months from the date of his or her last attendance to attend any meeting of the authority automatically ceases to be a member of the authority, unless the failure to attend was due to some reason approved by the authority before the expiry of the six-month period.

Councillor Joe Pike last attended a meeting on 7 January 2016. He has been unwell for several months and is not expected to be well enough to attend meetings before a period of six months has elapsed. At the request of the Conservative Group, the Council's permission is sought to approve Councillor Pike's continued absence from meetings.

Recommended:

That, in accordance with Section 85 of the Local Government Act 1972, the Council approve Councillor Joe Pike's continued absence from meetings due to reasons of ill-health.

The Leader's Report of Cabinet Issues

1. Education Transport Contract

Cabinet considered proposals in relation to the extension and procurement of education transport contracts totalling £15.8m due to expire in July 2016. These contracts represent 66% of the total value of home to school transport contracts currently in place.

Cabinet approved the carrying out of the necessary contractual and procurement processes to ensure that suitable transport arrangements are in place for September 2016 onwards, to fulfil the Council's statutory and policy-based obligations to provide transport to school for children.

2. Long term options for the Meals on Wheels Service

Agreement was sought from Cabinet on the future of the Meals on Wheels service in Essex. The current contract for the Meals on Wheels service expires on 30 September 2016 and cannot be extended beyond this date.

In 2015 the Council carried out a successful pilot exercise under which a significant number of service users has been transferred to alternative provision. Service users were enabled to choose the right provider for them.

Cabinet agreed that with effect from 1 October 2016 the Council will support residents who require a hot meal by operating an accredited list of providers in Essex in place of a commissioned Meals on Wheels service and authorised the Director for Integrated Commissioning and Vulnerable People to create and operate the accredited list of providers.

All service users of the current Meals on Wheels service will be assessed to ensure that they are provided with an equivalent service via community alternatives or domiciliary care.

3. Garden Settlements in North Essex

In the work being carried by Tendring District Council, Colchester Borough Council and Braintree District Council on their respective Local Plans, the potential for new major developments in the form of new 'garden settlements' has been identified as a possible means of meeting future growth requirements. Cabinet considered the proposals for 'garden settlements' in North Essex and gave its on-going support, working together with the district councils to progress the idea. It agreed in principle that the Council should participate in a legal entity

created for the purpose of delivering garden settlements and authorised the Cabinet Member to approve the final form of such an entity.

Cabinet was pleased to note the successful outcome of the recent bid for grant funding from the Department of Communities and Local Government in the sum of £640,000, which will enable the Garden Settlements concept to be progressed and provide on-going support for partnership working between Colchester Borough Council, Braintree District Council, Tendring District Council and Essex County Council to deliver the project. The grant funding is being held by Colchester Borough Council on behalf of the North Essex Garden Settlements Project.

This proposal does not yet have financial implications for the Council and by supporting this project the Council is not committing to any financial obligations.

4. Installation of LED Lanterns

Cabinet agreed a proposal to invest £9.222m which would be spent on the replacement of approximately 19,000 sodium street lanterns with more efficient LED lanterns. These lanterns are those which are lit all night under the Council's part night lighting scheme. The proposal will save the Council an estimated £24m in energy, maintenance and carbon taxes over a 20-year period. Part of this investment, £4.350m would be forward funded by an interest free Salix loan under a Government scheme.

Cabinet also agreed that the work would be directly awarded to Ringway Jacobs.

5. Lower Thames Crossing 2016 Consultation Response

Cabinet approved the response to the public consultation by Highways England on the Lower Thames Crossing Route Options and authorised the Cabinet Member for Infrastructure to approve the final terms of the submission. The basis of the response is that the County Council strongly agrees with the proposal for a new Crossing at Location C, east of Gravesend and Tilbury.

6. Procurement of a Substance Misuse Recovery Management Service

Cabinet has agreed to procure seven year contracts, to commence on 1 April 2017, for a Countywide Integrated Recovery Management Service and a Countywide combined Community Rehabilitation and Psychosocial Interventions Service for people with substance misuse issues.

7. Essex Better Care Fund Submission

Cabinet approved the draft Essex Better Care Fund (BCF) submission to NHS England for 2016/17 for £98.909m and authorised the Executive Director of People Commissioning to agree the final document.

The BCF was announced by NHS England in June 2013. Health and Wellbeing Boards were obliged to submit a BCF Plan to cover the 2015/16 financial year that met mandated minimum financial values and demonstrated achievement of a series of NHS England National Conditions. Similarly to the previous BCF,

investment must be made into NHS Community Services, Provision of Social Care, Reablement, Support for Carers, the Care Act and Disabled Facilities Grants.

Councillor David Finch
Leader of the Council

Council Issues

1. Change in Key Decision Threshold/Officer Delegations

At present officers are not allowed to take key decisions. Key decisions are defined in the constitution. Decisions with financial implications of £500,000 or more are key decisions, as are decisions which have a significant impact on people living or working in two or more electoral divisions.

The £500,000 threshold has been in place since 2000. The financial threshold appears to be lower than some similar sized authorities – Kent and Hampshire both have a Key Decision threshold of £1m, while Lancashire has a threshold of £1.4m. It also appears low as a proportion of the budget.

The proposal is to raise the Key Decision threshold from £0.5m to £2m and change the scheme of delegations to officers so that:

- a) Decisions under £500k would be unaffected – key decisions under £500k would still be taken by Cabinet Members.
- b) Decisions with a value of between £500k and £2m would no longer be key decisions based on value, although if the decision has a significant impact then it would still be a key decision and would still have to be taken by the Cabinet Member.
- c) Non-key decisions between £500k and £2m could be taken by officers or by the Cabinet Member. If taken by officers, the following would apply:
 - a. only an Executive Director could make the decision;
 - b. following consultation with the relevant Cabinet Member (or the Leader);
 - c. after considering a written report. The report and the decision would be published.
- d) Decisions taken by Officers over £0.5m would need to be taken in accordance with any requirements issued from time to time by the Section 151 Officer or the Monitoring Officer.

There would also be a simplification of the definition of a key decision which includes a number of provisions which are difficult to interpret such as 'cross cutting' and 'contract involving an element of risk transfer'.

Recommendation:

That the Constitution be amended as set out in Appendix 'A' to this report.

2. Technical amendments to Constitution

There are a number of technical amendments which are proposed as set out below. These have all been considered by the Chairman and Vice-Chairman and the Leaders of the Political Groups who raised no objection to them:

1. It is proposed to make a minor technical amendment to the Scheme of Delegations to Officers to reflect the outcome of a recent court case. This makes it clear that officers not named in the scheme of delegation can be authorised to exercise delegated functions.
2. It is proposed to amend the call-in rules so that:
 - a. In addition to the current rules, a decision can be called in by any four Members.
 - b. To make it clear that decisions taken by joint committees which exercise the Council's powers are subject to call in. In practice the Council already applies call in to these decisions.
3. The Monitoring Officer's delegations relating to the Code of Conduct which were agreed in October 2012 have not been incorporated into the Constitution and they need to be added in. It is also proposed to allow the Monitoring Officer to grant dispensations after consulting the Chairman of the Joint Standards Committee. This will prevent unnecessary meetings of the Joint Standards Committee and allow dispensations to be granted at short notice.
4. To amend paragraph 13.4 of the Constitution to make it clear that making appointments to outside bodies is the responsibility of the Executive in accordance with arrangements made by the Leader. At present it refers to this being a function of the Cabinet.
5. To update paragraph 7.3.2 of the Constitution with a revised role description for Deputy Cabinet Members to improve clarity of the role.

Recommendation:

1. That paragraph 15.1.1 of the Constitution be amended to say:

'This Scheme of Delegation also allows any officer identified in this scheme of delegation to authorise any other officer of the Council (identified by name or description) to exercise any of their delegated powers, subject to any conditions or limitations or exceptions which they may specify. All such authorisations shall be recorded in a register kept by the Monitoring Officer.'

2. (a) That paragraph 20.15 (ii) of the Constitution be amended to read:

'(ii) Subject to paragraph (ix) any decision taken by

- (a) the Cabinet;
- (b) any Member of the Cabinet; or
- (c) any joint body or partnership specified in paragraph 13.3

may be called-in to the Overview and Scrutiny Committee whose remit includes the subject-matter of the decision. A decision may be called-in by

- (a) Any Member of the relevant Overview and Scrutiny Committee;
- (b) Any Member of the Council who has the support of a further three Members of the Council; or
- (c) With the agreement of the Chairman of the Relevant Overview and Scrutiny Committee, any Member of the Council who represents a Division which is particularly affected by the decision in question.

- (b) That paragraph 20.15(v) of the Constitution be amended to say:

‘A decision is called-in if during the period specified in (iv) above a valid written call-in notice is received which specifies the reasons for the call-in. The proper officer shall then call a meeting of the Committee on such date as he decides (where possible after consultation with the Chairman of the Committee) and in any case within ten clear working days of receipt of the request to call in.’

3. Insert, after paragraph 15.3.7(ix) of the Constitution:

- (x) To be the Proper Officer to receive and manage the determination of complaints of failure by Members to comply with the Code of Conduct and to advise the Joint Standards Committee and Sub-Committee thereon.
- (xi) To investigate complaints against councillors or to arrange for such an investigation to be carried out or to seek a decision from the Standards Committee on whether to investigate and to notify.
- (xii) To determine that no further action be taken following a finding that there has been no breach of the Code, subject to consulting an Independent Person.
- (xiv) To grant applications for dispensations to members with respect to their or their spouse’s interest which arises as a result of membership of another public body.
- (xv) To grant dispensations under the Code of Conduct or the Localism Act 2011 after consulting an Independent Person and the Chairman of the Joint Standards Committee.

4. (a) Amend the first sentence of paragraph 13.4 of the Constitution to say:

'The Executive is responsible for exercising the following Local Choice Functions in accordance with arrangements made by the Leader:'

(b) Insert, at the end of 13.4(ii):

Any such appointments must be notified for information to the Council.

5. To replace paragraph 7.3.2 of the Constitution (Duties and Responsibilities of Deputy Cabinet Members) with:

- (i) To oversee a specific area or areas of responsibilities within a Cabinet portfolio, as allocated by the Leader in consultation with the Cabinet Member, but not to make any formal decisions or sign Cabinet Member Actions.
- (ii) To undertake tasks in relation to the portfolio, as allocated by the Cabinet Member, subject to any specific requirements of the Council's constitution or Terms of Reference of external bodies.
- (iii) To assist the Cabinet Member in monitoring performance in specified areas relating to the allocated portfolio.
- (iv) To attend Cabinet, and report to Cabinet, in the absence of the relevant Cabinet Member, but Deputies cannot vote.
- (v) The expected minimum time commitment for the role is 2 days a week (or 0.4 FTE).

3. Change to Scheme of Delegations made following restructure

Following the disestablishment of the post of Executive Director for Strategy, Transformation and Commissioning Support, the specific delegations possessed by that post have been re-allocated by the Chief Executive in accordance with paragraph 1.7 of the Constitution. Any use of this power has to be reported to the next meeting of Council for 'formal approval'. These changes simply reflect the current management arrangements for these services.

The following changes have been made:

Delegation	Transferred to
To exercise the Council's functions relating to employment policies and practice.	Executive Director for People Commissioning
To exercise the Council's functions relating to publication of material and relations with the press.	Executive Director for People Commissioning
To exercise the Council's powers to trade and to make any decision which the Council may make as a shareholder in any company.	Executive Director for Corporate and Customer Services

Recommendation:

That the above changes be formally approved by the Council as required by paragraph 1.7 of the Constitution.

4. Reports of the Local Government Ombudsman

Under the Local Government Act 1974 any public report of the Ombudsman is required to be 'laid before the Council'. This does not require the report to be considered at a meeting of the Full Council but the Ombudsman has expressed the view that the matters ought to be referred to in the papers for a meeting.

Two reports have been received since the last meeting and are reported here for noting.

In each case the Council has accepted the recommendations set out in the report.

Copies of each report are available by email from Colin Ismay, Council and Member Support Manager.

Date of report	Reference	Subject
2 February 2016	14 012 127	Adult social care
16 February 2016	15 003 872, 15 004 550, 15 004 223, 15 006 047	Home to school transport.

5. Disclosure and Barring Service (DBS) Checks for Members

At present the County Council has no formal policy on DBS checks for Members. Kent and Hertfordshire check all their members after each election. Although Essex has no formal policy, Members are asked to undergo a check if they undertake certain roles such as acting as a member of adoption or fostering panels.

The view of Simon Hart, the Chair of the Essex Independent Safeguarding Board, is that DBS checks are not a panacea but they do provide additional assurance. He considers that the Council needs to look at the broader responsibilities and opportunities that Members have. All Members have a corporate parenting responsibility. Many members will hold local surgeries or attend public events as a councillor. Further, many members are active in their divisions. They know the people living in their division. The role of councillor gives them opportunities to obtain information about people. Members may well find out who the vulnerable people are and where they live.

It is proposed that ECC adopts the attached policy (Appendix "B") with effect from May 2017.

As an interim measure it is proposed to ask the following to undergo a check now (unless a check is already in place):

- All Cabinet members.
- Deputy Cabinet Members for Adults and Children, Health and Education and Lifelong Learning.
- All members who are newly-appointed to governing bodies.
- All members of fostering and adoption panels.

If something is revealed on a DBS check or a member declines to participate then a risk assessment will be undertaken by the Council's safeguarding service.

If a DBS check reveals any information, a copy will be sent to the individual concerned, but not to the Council. The Council will just be told whether a certificate has been issued and whether or not it is clear. If the certificate is not clear, the Executive Director of People Commissioning, in consultation with the Member concerned, the Safeguarding Team and the Monitoring Officer will undertake a risk assessment.

Recommendation:

- (1) That the policy attached at Appendix 'B' be adopted with effect from May 2017.

(2) That as an interim measure the following are asked to agree to undergo a DBS check now, if they have not already been the subject of a check by the County Council:

- the Cabinet
- Deputy Cabinet Members for Adults and Children, Health and Education and Lifelong Learning
- All members who are newly-appointed to governing bodies
- All members of fostering and adoption panels.

Additions to the text are shown underlined and deletions are shown as struck through.

Increase in the Key Decision Threshold and Increase in Officer Delegations

1. Amend paragraph 5.3.2 of the Constitution to say:

5.3.2 Key Decisions

A "Key Decision", as set out in the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012, is a decision of the Executive which is likely either:

- (i) to result in the Council incurring expenditure or making savings which are in excess of ~~£500,000~~ £2m, except as otherwise determined under financial regulations; **or**
- (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions.

~~All other decisions shall be considered as non-Key Decisions.~~

A Key Decision will also include those decisions which will have a material effect on the Council's services, including but not limited to:

- ~~(i) an existing service or access to an existing service being substantially expanded or reduced or ceasing altogether or a new service being proposed;~~
- ~~(ii) a service which is currently provided in-house by the Council being outsourced;~~
- ~~(iii) a partnership being entered into with a third party which involves an element of risk share or transfer;~~
- (ii) a decision that involves any new policy or strategy or which forms part of the development of or a change to the Policy Framework or the Budget; and
- ~~(v) a decision to exercise the Council's power to trade or charge for discretionary services; and~~
- (iii) consideration of any matter which will result in a recommendation to full Council.

For the avoidance of doubt the following shall not be a Key Decision:

- (i) Routine money market transactions; and
- (ii) In relation to the letting of contracts, and where the Key Decision is the proposal to let the contract, subsequent decisions in relation to any procurement process from inviting tenders up to and including awarding the contract to a particular contractor are not then Key Decisions.

When the proposed expenditure arises from a proposed contract or tender, the expenditure likely to be incurred is the estimated gross expenditure to be paid by the Council over the whole life of the contract assuming that any options to extend are not exercised.

2. Amend paragraph 15.1.1 of the Constitution to say:

15.1.1 General Principles

This scheme, which has been agreed by the full Council and by the Leader of the Council, authorises officers of the Council to take decisions about the exercise of the Council's statutory functions.

This scheme is intended to be interpreted broadly and applies to all of the Council's powers and duties derived from legislation or otherwise and all incidental powers and duties.

Executive Functions are delegated by the Leader under section 9J of the Local Government Act 2000 (as amended). References to 'the Regulations' are references to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

Subject to the following paragraph, this Scheme of Delegation also allows any officer identified in this scheme of delegation to authorise any other officer of the Council (identified by name or description) to exercise any of their delegated powers, subject to any conditions or limitations or exceptions which they may specify. All such authorisations shall be recorded in a register kept by the Monitoring Officer.

~~Officers may further authorise any other officer (described by name or post) to exercise any of their delegated functions subject to any such conditions or limitations or exceptions which they may specify. All such authorisations shall be recorded in a register kept by the Monitoring Officer.~~

Officers identified in this scheme of delegation may not authorise anyone other than an Executive Director to make any decision on executive functions with financial implications in excess of £500,000.

Officers identified in this document as exercising delegated powers will be politically restricted under s2(1)(g) of the Local Government and Housing Act 1989.

Executive Decisions taken by officers must be recorded as required by law. Where an officer takes a decision on executive functions with financial implications which exceed £500,000, the decision may only be taken after the officer has:

- considered a written report
- consulted the relevant Cabinet Member or in the absence of the relevant Cabinet Member, the Leader.

As soon as the decision has been taken the report and the decision must be:

- published on the Council's website; and
- circulated to the relevant overview and scrutiny committee.

Nothing in this paragraph requires anything to be published if it includes exempt or confidential information.

Decisions taken by Officers must comply with such procedural or other requirements as may from time to time be prescribed by the Section 151 Officer or the Monitoring Officer.

In exercising any delegated powers, officers are expected to undertake appropriate consultation with other members and officers and shall have regard to any advice given. An Officer may choose not to take a decision if they feel it is not appropriate for them to make a decision and may refer a matter to the Cabinet Member or to the appropriate committee for a decision. To ensure political accountability for decisions, if the decision has financial implications in excess of £500,000 the Officer may not make a decision until they have consulted the Cabinet Member or in the absence of the Cabinet Member, the Leader of the Council. Nothing in this paragraph prevents the Cabinet Member from requiring consultation at a lower level.

Officers taking decisions are required to keep Members (including local members) properly informed about relevant decisions.

3. Amend paragraph 15.1.2 of the Constitution as follows:

15.1.2 Limitations on delegations

- (a) Officers may not take decisions on executive functions if the proposed decision is contrary to the Policy Framework approved by full Council. Where an officer is minded to do this a recommendation must be made to the Cabinet who will make a recommendation to full Council.
- (b) Any exercise of delegated powers must comply with:
 - (i) any restrictions contained in the law;
 - (ii) the constitution (including standing orders, procurement rules and financial regulations).
- (c) Officers may not take delegated decisions unless adequate budgetary provision has been made for the likely financial consequences of the decision.
- (d) Except as otherwise stated in the scheme of delegation, no officer may take a Key Decision (see paragraph 15.3.1(iii) for the Chief Executive's power to make key decisions).
- (e) Other than as set out below, this scheme does not authorise officers to change fees, charges or concession policies:
 - (i) officers may apply inflationary increases to fees, charges and concession policies;
 - (ii) officers may determine fees for one off events or activities;
 - (iii) officers may determine the fees to be charged to other public bodies for services which the Council provides on a commercial or full-cost recovery basis;
- (f) This scheme does not authorise the making of a compulsory purchase order.
- (g) This scheme does not authorise the acquisition of an interest in land in anticipation of future requirements.
- (h) Unless otherwise stated, this scheme does not authorise the confirmation of any order or grant of any permission, consent or licence or other determination where any response is received expressing opposition to the proposed course of action.
- (i) Nothing in this Scheme of delegation authorises any officer of the Council who is not a permanent employee to make any decision with financial implications in excess of £500,000.

Essex County Council
Policy on Disclosure and Barring Service (DBS) Checks for Members

1. Introduction

- 1.1 Essex County Council, as a democratically accountable organisation, gives the highest priority to safeguarding. Everyone has a part to play in ensuring that children and vulnerable adults are kept as safe as possible. All Members of the Council have a role as the 'corporate parent' of looked after children.
- 1.2 Accordingly, the Council has decided that with effect from 1 May 2017 all members should be asked to undergo an enhanced DBS check when they are elected or re-elected.

2. When will the request be made

- 2.1 All members will be asked to agree to be checked when they are elected or re-elected.
- 2.2 The only exception to this is that no one will be asked to undergo a fresh check if a check has been undertaken within the last six months (eg if someone is elected at a by-election very shortly before the normal County Council elections).

3. Applying for a check

- 3.1 Checks will be at the enhanced level where possible. Members will be asked to complete the paperwork electronically as far as possible. Support from Democratic Services is available for members to use the online system. As part of the requirements set by the DBS, officers assisting with the checks will need to see proof of identity.
- 3.2 The Council will pay the cost of applying for a check.

4. Receiving the result of the check

- 4.1 When the Councillor receives a clear certificate the Council will receive an online notification that a clear certificate has been issued.
- 4.2 If the check discloses anything the DBS will notify the Council that something is shown on the certificate. The DBS will not tell the Council what is shown on the certificate.

- 4.3 If something is disclosed in a DBS certificate or if an application for a DBS check has not been made within 3 months of election the matter will be referred to the Council's Safeguarding Service who will:
- (a) Contact the Member to ask for a copy of the certificate (if any).
 - (b) Speak to the Member about what has been disclosed.
 - (c) Make a confidential recommendation to the Executive Director for People Commissioning as to any action which they believe should be taken to safeguard children and/or vulnerable adults.
- 4.4 Where full information is not provided by a Member the Safeguarding Service will issue a draft recommendation based on the information they do have.
- 4.5 The Executive Director for People Commissioning will make a final recommendation after consulting:
- (a) the Member concerned
 - (b) the Monitoring Officer; and
 - (c) such other persons as may be appropriate in the circumstances.
- 4.6 The recommendations could for example include:
- (a) A recommendation that the Member concerned is not appointed to a particular office or position.
 - (b) A recommendation that the Member does not discharge any particular duty.
 - (c) A recommendation that that the Leader of the Member's political group and/or the Leader of the Council is notified as to any advice given.
- 4.7 The Member will be notified of the recommendation along with any other person to whom a recommendation is addressed.
- 4.8 Under the Council's statutory safeguarding responsibilities the Executive Director for People Commissioning may need to make further disclosures if necessary and proportionate to do so.



Essex Fire Authority

Report to the Constituent Authorities of the meetings on 17 February & 13 April 2016

The items reported below are the main issues considered by Essex Fire Authority at its scheduled meetings on 17 February and 13 April 2016. Full details of all the matters considered, together with the minutes of the meetings, can be viewed on the Essex County Fire and Rescue Service website, www.essex-fire.gov.uk.

1. Budget 2016/17

The Authority has agreed its revenue and capital budgets for 2016/17, allowing for an increase in Council Tax of 1.9%. In reaching their decision, Members considered the options for the revenue and capital budget for the Authority and received information on the budget and business planning process. They also noted information on the formula grant settlement, share of national non-domestic rates, council tax base and collection account for 2016/17.

The Authority noted that, in due course, it would be asked to consider whether it wished to accept the Government's offer to provide central funding allocations for each year of the Spending Review period (up to and including 2019/20). The timescale for this would depend upon the receipt of guidance concerning the Government's requirements in relation to the efficiency plan to be published by all authorities opting to accept the offer.

The authority resolved as follows:

	2015/16 Budget	2016/17 Budget
Net Expenditure	£71,827k	£71,304k
Decrease from 2015/16		-£523k
Precept	£39,758k	£41,224k
Band D Council Tax	£66.42	£67.68
Increase from 2015/16		1.90%

- A net expenditure budget of £71.304m;
- A precept of £41.224m;
- A Band D council tax of £67.68 (an increase of £1.26 or 1.9%)
- The bands of Council Tax are shown in the following table:

Council Tax Band	2015/16	2016/17 with 1.9% Increase
A	£44.28	£45.12
B	£51.66	£52.64
C	£59.04	£60.16
D	£66.42	£67.68
E	£81.18	£82.72
F	£95.94	£97.76
G	£110.70	£112.80
H	£132.84	£135.36

e. Capital expenditure budget of £7.823m in 2016/17.

2. Charging

The Authority has reviewed and approved its arrangements for charging for the provision of specific services, allowing for an increase of 1% with effect from 1 April 2016. The Authority is satisfied that its arrangements are broadly in line with those adopted by other authorities, and it currently has no plans to change its approach with regard to the activities for which it does not charge, in particular rescuing animals, and attendance in response to automatic fire alarms where there is no fire, or persistent false alarms.

3. Funding for Sprinklers – Final Report

In 2013, the Authority supported a three-year programme (£250k per year) of match funding for the installation of sprinklers in high-risk premises. Approximately 500 homes of residents that are among the most vulnerable in the community have now been supported by the Authority, and firefighters protected from significant risk at incidents in high risk buildings where they may be asked to enter to save lives.

The Authority was pleased to acknowledge the success of the Funding for Sprinklers scheme, and the work done to promote the use of the systems to protect vulnerable residents. It was noted that support for the continuation of the scheme was being sought as part of the public consultation on Options for Change 2016-2020.

4. Appointment of the Clerk and Monitoring Officer

Following the retirement of Philip Thomson, the Authority has agreed to appoint Shirley Jarlett of Essex Legal Services (the legal trading entity of Essex County Council), as its Clerk and Monitoring Officer. Mrs Jarlett was formerly the Deputy Clerk and Monitoring Officer. The Authority has also agreed to appoint Roy Carter, the Service Solicitor, as Deputy Clerk and Monitoring Officer.

In agreeing these appointments, the Authority wished to place on record its sincere thanks to Philip Thomson for his significant contribution as Clerk and

Monitoring Officer to the work of Essex County Fire and Rescue Service over a considerable number of years.

5. Make Some Noise Employee Engagement Survey Results 2015

The Authority has received a report and presentation on the results of the annual Make Some Noise Employee Engagement Survey 2015, the second such survey to be conducted.

Members noted that 616 employees completed the survey compared to 731 the previous year, which equates to 41% of the workforce.

The overall engagement score was 63%, calculated based on the results of questions relating to pride, endeavour, advocacy and care. This was a slight decrease from last year's results, and remains 15 points lower than the external benchmark, although just seven points lower than other fire and rescue services.

The Authority received information on the survey results, which had been analysed by People Insight (the independent survey provider) and delivered to Service Managers, representative bodies and Your Voice Employee Forum via face to face presentations in February 2016. The survey reports had also been published in full in accord with a promise to share the results with employees in an open and transparent way. Employees had already engaged well and were keen to get involved in shaping future local actions as a result of the findings, and would continue to have the opportunity to be involved with the Your Voice Employee Forum.

Members received historical comparison information, showing where results indicated improvement or decline in different areas, compared to the previous year.

The Authority noted the top five results, where the highest positive score had been achieved, together with the bottom five results. Members were disappointed at the negative result around member engagement with staff, but noted that this may not reflect recent efforts to begin to address this, through the Independent Review Action Plan (IRAP).

With regard to next steps, as the issues identified by People Insight for further action were already included within the IRAP, these would now be prioritised as part of that programme of work. Progress towards delivery of the IRAP, and therefore also with regard to the actions arising from the survey, would continue to be monitored via the Strategic Delivery Board, Strategic Management Board, Expert Advisory Panel and by the Authority itself. The full survey would be repeated in November 2016, as well as a short, focused (pulse) survey to coincide with the six month review of the actions taken as a result of the Independent Cultural Review. The intention was for the survey to run for at least three annual cycles, with consideration to be given at that stage as to whether it can move to a biannual cycle.

6. RDS Development Project - Update

The Authority has been updated on progress with regard to the Programme 2020 Retained Duty System (RDS) Development Project.

The aim of the Project is to assist the Service in recruiting and retaining more on-call firefighters, ensuring competence and safety, delivering a more flexible on-call service whilst ensuring increased efficiency, availability and ensuring equality in terms and conditions of employment.

The Authority noted action to date on a number of issues, including the launch of a range of new recruitment support materials in December 2015. This has resulted in an increase in numbers of expressions of interest, although this had not yet translated into increased applications.

Members noted the planned next steps within the Project, which include:

- A strategy for employer/business engagement
- Development of a new availability model for on-call firefighters
- Work on improved on-call employee reward and recognition
- Development of improved training and development opportunities
- Continued work on recruitment.

It was noted that the name of the Project would now change to reflect current terminology, referring to 'on-call fire fighters' instead of the 'Retained Duty System'.

The Authority was pleased to note the positive progress being made by the Project, in particular given the increased reliance being placed upon the on-call system as part of the future service delivery model.

7. Trade Union Facility Time 2015-16 and the joint Negotiation Consultation Arrangements

The Authority has received an annual update on the use of Trade Union Facility time. Members received a range of information on this issue (falling within the categories set out below), noting that it would now be published in accordance with the Local Government Transparency Code 2015:

- The total number (absolute number and full time equivalent) of staff who are union representatives (e.g. general, learning and health and safety representatives);
- The total number (absolute number and full time equivalent) of union representatives who devote at least 50 per cent of their time to union duties;
- The names of all trade unions represented in the local authority;

- A basic estimate of spending on unions (calculated as the number of full time equivalent days spent on union duties by authority staff that spent the majority of their time on union duties multiplied by the average salary); and
- A basic estimate of spending on unions as a percentage of the total pay bill (calculated as the number of full time equivalent days spent on union duties by authority staff that spent the majority of their time on union duties multiplied by the average salary divided by the total pay bill).

The Authority also received information on the joint negotiation and consultation arrangements currently in place for all Trade Unions, noting that a review of these was due to take place, facilitated by Linda Dickens (a member of the Expert Advisory Panel). The review would be part of a holistic approach looking at the inter-connections between different areas of work being undertaken as part of the Independent Review Action Plan, keeping in mind the broader aim of challenging the culture of Industrial Relations, as well as the culture more generally.

8. Progress Report on the delivery of the work programme required to improve the culture within the Essex County Fire and Rescue Service

The Authority has continued to receive regular progress updates on work to implement the recommendations arising from the Independent Cultural Review. These have included reports by the Chairman of the Expert Advisory Panel.

**Councillor Anthony Hedley
Chairman**

