

Governance Committee Agenda

11 March 2020 at 7pm

**Crompton Room, Civic Centre,
Duke Street, Chelmsford**

Membership

Councillor H. Ayres (Chair)
Councillor N.M. Walsh (Vice-Chair)

and Councillors

R.H. Ambor, K. Bentley, N.A. Dudley, D.G. Jones and I. Wright

Parish Council Representatives

Councillor V. Chiswell (Great Baddow Parish Council)
Councillor P.S. Jackson (Great Waltham Parish Council)
Councillor J. Saltmarsh (Woodham Ferrers and Bicknacre Parish Council)

Local people are welcome to attend this meeting, where your elected Councillors take decisions affecting YOU and your City. There will also be an opportunity to ask your Councillors questions or make a statement. If you would like to find out more, please telephone Daniel Bird in the Democracy Team on Chelmsford (01245) 606523 email

Daniel.bird@chelmsford.gov.uk, call in at the Civic Centre, or write to the address above. Council staff will also be available to offer advice in the Civic Centre for up to half an hour before the start of the meeting.

**If you need this agenda in an alternative format, please call 01245 606923.
Minicom textphone number: 01245 606444.**

Recording of the part of this meeting open to the public is allowed. To find out more please use the contact details above.

GOVERNANCE COMMITTEE**11 March 2020****AGENDA****PART I****1. APOLOGIES FOR ABSENCE****2. MINUTES**

To receive the minutes of the Meeting held on 6 November 2019.

3. DECLARATION OF INTERESTS

All Members are reminded that they must disclose any interests they know they have in items of business on the meeting's agenda and that they must do so at this point on the agenda or as soon as they become aware of the interest. If the interest is a Disclosable Pecuniary Interest they are also obliged to notify the Monitoring Officer within 28 days of the meeting.

4. PUBLIC QUESTION TIME

Any member of the public may ask a question or make a statement at this point in the meeting. Each person has two minutes and a maximum of 15 minutes is allotted to public questions/statements, which must be about matters for which the Committee is responsible.

The Chair may disallow a question if it is offensive, substantially the same as another question or requires disclosure of exempt or confidential information. If the question cannot be answered at the meeting a written response will be provided after the meeting.

5. CHAIR'S ANNOUNCEMENTS**6. MONITORING OFFICER REPORT****7. PROPOSED CHANGES TO THE CONSTITUTION****8. MATERNITY/PATERNITY POLICY****9. REVIEW OF THE COMPLAINTS ASSESMENT CRITERIA AND COMPLAINTS PROCEDURE****10. COMPLAINTS TO THE LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN – ANNUAL REVIEW****11. ANNUAL WHISTLEBLOWING REPORT****12. ANNUAL REPORT FOR 2019-20 REGULATION OF INVESTIGATORY POWERS ACT 2000 ('RIPA')****13. MODEL CODE OF CONDUCT UPDATE****14. GIFTS AND HOSPITALITY REPORT****15. WORK PROGRAMME**

16. URGENT BUSINESS

To consider any other matter which, in the opinion of the Chair, should be considered by reason of special circumstances (to be specified) as a matter of urgency.

PART II (EXEMPT ITEMS)

To consider whether the public (including the press) should be excluded from the meeting during consideration of the following agenda items on the grounds that it involves the likely disclosure of exempt information specified in the appropriate paragraph or paragraphs of Part 1 of Schedule 12A of the Local Government Act 1972 indicated in the Agenda item.

MINUTES

of the meeting of the

GOVERNANCE COMMITTEE

on 6 November 2019 at 6.30p.m.

Present:

Councillor H. Ayres (Chair)

Councillors R.H. Ambor, K. Bentley, N.A. Dudley, D.G. Jones, N.M Walsh and I. Wright

Also in Attendance –

Parish Councillors, P.S. Jackson and J. Saltmarsh

Designated Independent Person:

Mrs. C. Gosling

1. **Apologies for Absence and Substitutions**

Apologies for absence were received from Parish Councillor Chiswell. No substitutions were made.

2. **Minutes**

The minutes of the meeting on 22 July 2019 were signed as a correct record by the Chair.

3. **Public Question Time**

No questions were asked, or statements made.

4. **Declarations of Interest**

All members were reminded to declare any Disclosable Pecuniary Interests or other registerable interests where appropriate in any of the items of business on the meeting's agenda.

5. **Chair's Announcements**

No announcements were made.

6. **Polling District Review**

The Committee were informed that the Council undertook a review of its polling districts every five years and that Full Council had delegated the authority to undertake this review, to the Governance Committee. The Committee heard that the review took place to assess how electors' needs could be better met by the Council and focused on guidance from the Electoral Commission. It was noted that factors including, feedback from recent elections, turnout stats and feedback from drop in sessions were also considered. It was noted that the Council currently had 78 polling districts and that it agreed this would increase to 81. The Committee heard that initially the proposals had been set to take place from 1st December but would now be held back due to the December General Election. Therefore, the proposed arrangements would be in place

for the next scheduled elections in May 2020. It was noted that this would allow officers time to properly implement the changes and inform those affected by the changes. It was also noted that some of the changes may be implemented for the December general election where there were availability issues.

The Committee considered the ten proposals outlined in the report and made the below comments.

The polling place allocated to the polling district Beehive Lane will be relocated to St Pauls Church.

The Committee heard that concerns had been raised by Ward Councillors regarding access to the car park. Officers informed the Committee that after a site visit it was recognised it could be an issue at peak times and that therefore the car park would be closed, other than for disabled use, to encourage on road parking which was sufficient. It was also noted that the school normally used in the area was not available for December and the Committee therefore agreed, that this element of the proposals be put in place for the General Election.

The polling place for the polling district Woodhall will be relocated to the site of St John Payne Catholic School.

The Committee agreed that this was a sensible change as it would avoid using a portacabin which had caused various issues in previous years. The Committee were informed that the school were happy to accommodate for the December General Election and therefore agreed, that this element of the proposals be put in place for the General Election.

The polling place in the polling district Collingwood will be relocated to the site of Collingwood Primary School.

The Committee heard that this change was being proposed as currently all Collingwood residents had to travel to Chetwood (the neighbouring polling district) to vote. Therefore, it was recommended to use Collingwood Primary School instead due to its convenient location, which would also prevent four polling stations all being at the Chetwood Centre. The Committee heard that the school had expressed concerns and may consider it necessary to close so it could be used as a polling station. Some comments had been received from parents raising concerns on this matter. A member of the Committee expressed their concern with the proposal, regarding that they would likely have to close due to being a small site. They also stated that the current Chetwood centre had a big car park and that the parish council had not unanimously endorsed the proposal. Officers clarified that the use of schools was always a last resort and all other buildings were considered beforehand, but in this instance the school was the only suitable premises within the polling district. The Committee asked officers to monitor the situation. It was agreed that the Committee be provided with feedback on the use of Collingwood Primary School. It was also noted that in the future, as elections were normally scheduled in advance, inset days could be utilised to minimise disruption.

The Committee agreed that the ten proposals should be put in place and were pleased with the improvements put forward for electors. It was also noted that only two of the proposals, St Pauls Church and St John Payne school would be in place for the December General Election. Officers also informed the Committee that for the other changes, letters would be sent to residents detailing any relevant changes.

RESOLVED that;

1. the amendments outlined within the report are approved and implemented on publication of the full register for future electors, including the reallocation of polling district codes for administrative purposes and;
2. the proposals for the Beehive Lane and Woodhall polling districts be implemented for the December General Election but the rest be postponed until 2020 and;
3. the proposal for the Collingwood polling district be monitored and feedback be provided to the Committee.

(6.30pm to 7.05pm)

7. Constitution Part 5.6: Code of Conduct for Employees/Workers

The Committee considered a report detailing an updated draft Code of Conduct. The Committee were informed that a minor review had taken place and the changes had already been agreed with the union. It was noted that as it involved a change to the Constitution, the Committee would have to recommend the new document to Full Council. A member of the Committee agreed to pass on some grammatical changes to officers after the meeting. Two issues were also raised at paragraph 1.5 of the proposed code, regarding the use of the word protect and at paragraph 15 regarding the section 'preventing abuse by promoting good practice'. The Committee agreed to delegate to the Monitoring Officer and Chair the authority, to make slight amendments to this section before it is recommended to Council.

RESOLVED that;

1. the changes to the revised Code of Conduct (Part 5.6 of the Constitution) and supporting Equality Impact Assessment be noted and;
2. the Council be recommended to approve the amendments to its Constitution detailed in Appendix 1 of the report and;
3. the authority to make minor changes relating to paragraph 1.5 and 15 be delegated to the Monitoring Officer after consultation with the Committee Chair.

(7.32pm to 7.41pm)

8. Monitoring Officer Report

The Committee received a report updating them on progress with Standards regime issues and an update on the use of Section 32 of the Localism Act, to withhold home addresses from members interest forms.

It was noted by the Committee that one new complaint had been received which had led to no further action.

The Monitoring Officer informed the Committee that the decision had been taken after the May elections to use Section 32 of the Localism Act, to withhold home addresses from register of interest forms for City Councillors. It was noted that the Monitoring Officer had discussed the matter with the Chair at the time. The Committee agreed that the approach was sensible and that members still had the opportunity to wish to opt in and have their address displayed on the form. The Committee agreed that the practice should also be put in place for Parish Councillors. The Monitoring Officer therefore stated that work would be undertaken to put this in place for Parish Councillors as well. It was also

noted that Parish Council clerks would be informed of this and City Councillors would be informed that they can opt back in, if they wished to display their address on their form.

RESOLVED that;

1. the current statistical information as to complaints made be noted and published on the Council's website as set out in the appendix and;
2. the Monitoring Officer continues to withhold members home addresses from the register of interests on the website under Section 32 of the Localism Act 2011 and that this be extended to Parish Councillors and;
3. City and Parish Councillors be notified of this and be informed that they could opt in to have their address still displayed on their register of interest forms.

(7.41pm to 7.58pm)

9. **Local Government Ethical Standards**

The Committee considered a report detailing the elements of best practice recommended by the Committee on Standards on Public Life. It was noted that the majority of the examples were already in place and that a couple needed minor work as set out in the report. The Committee heard that the future work programme would help to address those that needed some work.

RESOLVED that;

1. the report be noted and;
2. the recommendations already being followed and the actions for others to be followed in the future be noted.

(7.58pm to 8.04pm)

10. **Work Programme**

The Committee received a report informing them of their future work programme. It was noted that the programme was now set out over a two-year period. The Committee were informed that the programme included reviews of documents such as the Councillors Code of Conduct and other policies. It was also noted that at the next meeting in January 2020, a pre-hearing procedure would be looked at by the Committee.

RESOLVED that the Committee's work programme as attached at Appendix 1 to the report be agreed.

(8.04pm to 8.09pm)

11. **Urgent Business**

There were no matters of urgent business to discuss.

Exclusion of the Public

RESOLVED that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for Item 12 on the grounds that it involved the likely disclosure of exempt information falling within paragraph 1 of Part 1 of Schedule 12A to the Act.

12. Recruitment of Independent Person

The Committee were informed that the Council's Constitution made provision for the appointment of two Independent Person's. It was noted that a vacancy had become available and the Committee were asked to make a recommendation for appointment to Full Council. The Committee were therefore asked to consider the one application received from Mrs Mills and whether they should recommend their appointment to Full Council.

Mrs Mills attended the meeting and answered questions from the Committee on her previous experience and why she had applied for the role. Mrs Mills explained she had worked in Local Government her whole career and had a wide experience on governance matters.

The Committee agreed that they were pleased with the application and the answers provided and wished to recommend Mrs Mills appointment to Full Council.

RESOLVED that the Committee recommended to Full Council that Mrs Mills be appointed to the vacant Independent person position.

(7.05pm to 7.32pm)

The meeting closed at 8.09 p.m.

Chair

GOVERNANCE COMMITTEE

11 March 2020

AGENDA ITEM 6

Subject	MONITORING OFFICER REPORT
Report by	MONITORING OFFICER

Enquiries contact: Monitoring Officer - Lorraine Browne, 01245 606560,
Lorraine.browne@chelmsford.gov.uk

Purpose

To keep the Committee informed about progress with Standards regime issues and other work of the Committee.

Recommendation(s)

1. To note the current statistical information as to complaints made and agree this should be published on the Council's website as set out in the Appendix.
2. To note the remainder of the report.

Corporate Implications

Legal:	These are set out in the report
Financial:	None
Potential impact on climate change and the environment:	None
Contribution toward achieving a net zero carbon position by 2030:	None
Personnel:	None
Risk Management:	None
Equalities and Diversity:	Complaints are monitored to ensure that there is no disproportionate dissatisfaction by the different equality target groups. This data is considered as part of the assessment process to ensure that there is no discrimination in service delivery.

Health and Safety:	None
IT:	None
Other:	None

Consultees	None
-------------------	------

Policies and Strategies

The report takes into account the following policies and strategies of the Council:

The Councillor Code of Conduct and the adopted Complaints Procedure

1. Complaints

1.1 The **Appendix** to this report sets out the latest statistical data related to complaints under the Standards Regime. One new complaint was received.

1.2 Subject to any questions raised, the Committee is asked to confirm that this information should be published as set out in **Recommendation 1**.

List of Appendices

Appendix 1 – Statistical Information regarding complaints made

Background Papers

Nil

**Standards Enquiries and Investigations Statistics – Localism Act 2011
2019-2020 – 30.10.19 TO 2.3.20**

Status of Complaint Categories	Total No.	Case No.	City, Parish or Town Councillor	Date Issue First Raised	Alleged Breach or Issue Raised	Current Position
1. No formal complaint	0					
2. No further action required after consultation with one of the Independent Persons	1	1/20	City	27/1/20	Various allegations including disrespect	Clarification was sought as to official capacity from both the Councillor and Complainant. Following responses from both the determination was able to be made, in consultation with the IP that the Councillor was not acting in official capacity at the time the allegations arose. Accordingly, no further action was necessary.
3. Not able to legally pursue complaint	0					
4. Complaint on hold	0					
5. Decision as to appropriate action still awaited	0					

Status of Complaint Categories	Total No.	Case No.	City, Parish or Town Councillor	Date Issue First Raised	Alleged Breach or Issue Raised	Current Position
6. Complaints being investigated	0					
Total	1					

Formal Complaint Outcomes

	Case No. and Councillor	Committee Date and Decision	Date Issue First Raised	Current Position
Outcome of Investigations				
Other Action				

GOVERNANCE COMMITTEE

11 March 2020

AGENDA ITEM 7

Subject	PROPOSED CHANGES TO THE CONSTITUTION
Report by	MONITORING OFFICER

Enquiries contact: Monitoring Officer - Lorraine Browne, 01245 606560,
lorraine.browne@chelmsford.gov.uk

Purpose

The purpose of this report is to consult with Members as to the changes to the Constitution proposed by the Monitoring Officer. Any changes would be further considered by Cabinet prior to formal approval at Annual Council.

Recommendation(s)

1. That the changes set out in the report and appendices 1-3 are recommended to Council, noting that these will be considered further by Cabinet together with the proposed delegation to the Monitoring Officer in consultation with the Chair of Governance Committee to make appropriate amendments to the final proposed changes for Council.

Corporate Implications

Legal:	There are a wide range of legal issues that arise in updating and amending the Constitution. Relevant legal issues are highlighted in relation to any specific change that is recommended as necessary.
Financial:	None
Potential impact on climate change and the environment:	None
Contribution toward achieving a net zero carbon position by 2030:	None
Personnel:	None
Risk Management:	Reviewing and updating the Constitution regularly reduces the risk of it becoming out of date and challenge on this basis.

Equalities and Diversity:	None
Health and Safety:	None
IT:	None
Other:	None

Consultees	
-------------------	--

Policies and Strategies

The report takes into account the following policies and strategies of the Council:

The Council's Constitution

1. Background

- 1.1 Officers have been reviewing and updating the Constitution in three stages. Firstly, through use of the delegation to the Legal and Democratic Services Manager to make minor changes eg legislative and organisational changes necessary as well as ensuring the document is gender neutral.
- 1.2 This report relates to a second stage in relation to changes where member approval is necessary but where the changes are fairly straightforward and are unlikely to need detailed consultation with members prior to approval. The changes set out in the Appendices are generally those necessary to ensure the Constitution reflects current modern working practices and is up to date. The report also includes matters raised by officers of members (eg the Petition Scheme). There is also one compliance issue that is raised.
- 1.3 In terms of process any changes will be considered by Cabinet and will then be passed to Annual Council for final consideration. One area relates to the Treasury Management Sub Committee and it is sensible to consult the main Audit and Risk Committee. As the Audit and Risk Committee meeting is after Governance Committee a delegation to the Chair of Governance Committee is sought to make any changes following consultation that need to be made.
- 1.4 The Council's Procurement Manager has reviewed the Contract Procedure Rules in consultation with Legal colleagues and they have been entirely re written. The new proposed Contract Procedure Rules are attached at Appendix 1. The main aim has been to simplify and modernise the approach to reflect current working practices with greater focus on outcomes, consistency and with responsibility and approval aligned to skills, qualifications and experience. Much of the technical detail which needs updating regularly is now contained within a Procurement Manual which acts as an Officer's guide.
- 1.5 Changes to other parts of the Constitution are contained in Appendix 2. The proposed changes to the terms of reference of the Treasury Management Sub committee are in Appendix 3.

1.6 A final stage to the Constitutional review will involve areas that are likely to need detailed member engagement and input to determine the detail of any changes to be proposed. The mechanism for this review also needs to be determined as well as the ongoing approach to maintaining the Constitution.

2. Conclusion

2.1 That members recommend the new Contract Procedure Rules and other changes to the Constitution set out in Appendices 1, 2 and 3 to Council, noting that these will be further considered by Cabinet.

2.2 That the Monitoring Officer in consultation with the Chair of Governance Committee has delegated authority to make any further amendments to those recommended within the Appendices for approval by Council eg should Audit and Risk Committee wish to recommend that changes are made to the terms of reference of the Treasury Management Sub Committee.

List of Appendices

Appendix 1 – Contract Procedure Rules

Appendix 2 – other proposed changes to the Constitution

Appendix 3 – proposed changes to the terms of reference of the Treasury Management Sub-Committee

Background Papers

The Council's Constitution

PROCUREMENT

CHELMSFORD CITY COUNCIL

CONTRACT PROCEDURE RULES

PART 4.10

Version dated Feb 2020

	Page
Contents	
4.10.1	Introduction, Scope and Principles
4.10.2	Definitions
4.10.3	Key Considerations: <ul style="list-style-type: none"> a) Estimating Contract Value b) Aggregation/ Disaggregation c) Procurement Thresholds <ul style="list-style-type: none"> i. External Thresholds ii. Internal Thresholds d) Strategic / Public Interest Considerations
4.10.4	General Notes – Apply to all Procurement Processes <ul style="list-style-type: none"> a) eProcurement b) Procurement Documentation & Retention Thereof c) Responsible Procurement d) Terms and Conditions of Contract e) In-house Services f) Public to Public Tradingg Contract Award/ Value for Money
4.10.5	Procurement Activity <ul style="list-style-type: none"> a) Contracts up to £25,000 b) Contract Value between £25,000 and £50,000 c) Contract Value above £50,000 (and any strategic procurement) but below EU threshold d) Contract Value above EU Threshold e) Executive Decision/Key Decision
4.10.6	Frameworks, DPS, eAuctions <ul style="list-style-type: none"> a) External Agreements b) Internal Agreements c) Compliance Register d) Value Engineering & Negotiation
4.10.7	Contract Management <ul style="list-style-type: none"> a) Review and Monitoring b) Reg 84, Contracts Finder, OJEU Award Notices c) Contract Variations, Modification or Termination d) Extensions

4.10.1 Introduction, Scope and Principles

These Contract Procedure Rules are made under the provisions of section 135 of the Local Government Act 1972 and govern the making of contracts for and on behalf of the Council.

The purpose of these Rules is to provide clear guidance for the processes that result in the award of a contract for:

- Goods
- Services
- Works
- Concessions
- Public Sector to Public Sector Trading

These Rules look at the various methods and procurement routes the Council can employ in order to reach contract award. They are:

- Procurement Card
- Quotation
- Tender
- External/Internal Framework Agreement
- External/Internal DPS (Dynamic Purchasing System)
- eAuction

The Rules are intended to promote good purchasing practice, value for money, public accountability and deter bribery and corruption. They aim to ensure:

- True and fair competition for contracts
- Clear and auditable procedures
- Accountable and compliant process
- The Council to use its purchasing power for the benefit of the local economy, environment and community under its jurisdiction.

The provisions contained in these Rules are subject to the statutory requirements of both the European Union and United Kingdom Government. The letting and content of contracts shall conform to all statutory requirements relating to contracts and procurement.

4.10.2 Definitions

Lead Procurement Officer	Procurement Services Officer leading on the procurement process
Council	Chelmsford City Council
Directors	Service Directors are responsible for ensuring that officers within that directorate comply with the Contract Rules, Financial Rules and the Regulations*
Procurement Services Manager	Shall ensure that Council procurement is carried out with due diligence and in the spirit of true, fair and transparent competition, and that the Council meets its all its obligations under the Regulations* <i>Please see Procurement Manual for specific tasks.</i>
Local Government Transparency Code	Requirements for local government to publish open data on spend of £500 and above
Regulations*	The 'EU Procurement Rules' comprising: <ul style="list-style-type: none"> • The Public Contracts Regulations 2015 (as amended) and/or Concession Contracts Regulations 2016 (as applicable) as supplemented by EU Directives on the procurement of Goods, Works, Services and Concessions. • The Council's Financial Rules • Public Services (Social Value) Act 2012 • EU Exit Regulations 2019
Legal Team	The Council's internal legal team OR external counsel
Service Managers	Contract management responsibilities, and responsible for all service budget spend to be made in line with these rules.
Goods	Supplies or materials
OJEU	Office Journal of the European Union
Threshold	The level of spend that dictates the rules or regulations that apply to a procurement
Contract	Any form of contract, agreement for the supply of Goods, Works and/or, Services that the Council enters
Contractor	Any person, partnership, company or any other organisation which provides or offers Goods, Works and/or Services to the Council
Dynamic Purchasing System (DPS)	A long running, completely electronic procurement tool used for commonly available works, services and goods. Qualifying contractors can join at any time and participate in mini competitions for contracts.
Framework Agreement	An agreement, with one or more contractor, that establishes the standard terms and conditions of supply over a fixed period of time with no pre-set volume information. <ul style="list-style-type: none"> • Internal – setup by the Council for use by us and other specified public bodies • External – setup by another public body and accessible by the Council
LTR	Light Touch Regime – relates to procurements that are generally of low interest to cross border competition e.g. social, health and education services

The Procurement Manual	This document is a Practice Note for day to day use by Council staff. The manual provides detailed guidance on procurement processes pursuant to the Public Contracts Regulations 2015, the Council's internal rules and its responsibilities and duties therein. The Manual should be referred to for all technical aspects of a procurement and further advice can be provided by Procurement Team.
The Procurement Strategy	This document details the aims and objectives of the Council's procurement activities including the social, environmental and economic impact of these activities.

4.10.3 Key Considerations

Before commencing any procurement using public money, officers must understand the following:

1. The contract value - this dictates which procurement routes can be used.
2. Strategic nature and public interest in the procurement -this influences which of the allowable routes is most appropriate.

a. Estimating Contract Value

The value of a contract is the total amount the Council expects to pay (or receive), net of VAT, over the length of the agreement, including any extension period or stated add-ons such as maintenance and support costs.

If the contract is for an uncertain or unfixed term, the value is the amount the Council expects to pay (or receive) over four years. This could be, for example, the monthly value multiplied by 48. If the contract is broken into lots, all lots must be factored into the total.

For Internal Framework Agreements / DPS, the value should be based on the level of anticipated spend from all parties with access.

b. Aggregation/Disaggregation

The Council is required to aggregate need whenever it is possible to do so. Aggregation groups together demand for commonly purchased goods and services to harness greater economies of scale and seek better value for money. Aggregation results in a single contract to manage as opposed to several smaller contracts.

Disaggregation, an offence under the Regulations, is the reverse; dividing up similar requirements into smaller contracts to remain below the relevant procurement threshold.

c. Procurement Thresholds

i. External Thresholds

The Regulations require a full tender process to be undertaken when the value of the contract exceeds a set level. The tender has to be advertised in OJEU and follow guidelines provided in the Regulations. These thresholds are set by the EU and reviewed every two years. There is threshold for each category of spend.

Category	Threshold (2018-19)	Example
Works	£4,733,252	Constructions, repairs, maintenance
Goods / supplies	£189,330	Stationery
Services	£189,330	Cleaning

Concessions	£4,733,252	Bailiffs, catering
Light Touch Regime	£633,540	Education e.g. Apprenticeships
Land Lease & Property	Neither the procurement rules stated here, or the Procurement Regulations apply to contracts of this type	

ii. Internal Thresholds

Below the EU thresholds the Council has set its own spend limits. These limits provide guidelines for the method of procurement that should be used, and the associated authority needed to undertake it. The table below provides a broad outline with further detail provided in the Procurement Manual.

Threshold	Sub-threshold	Notes	Level of Authority Required
Up to £50,000	Up to £1,000 £1,001 to £25,000 £25,001 to £50,000	Please see the Procurement Manual for more detailed guidance	Service Manager
£50,001 to £189,330		Procurement team involvement is required Route to Market Assessment to be carried out	Senior Officer/ Service Manager and Procurement Manager
Spend over £189,330 <i>Goods & Services</i>		Falls under the Regulations, a full tender process is required Procurement team involvement is mandatory to ensure compliance with Regulations Route to Market Assessment to be carried out	Director and Procurement Manager
Spend over £100,000	Executive Decision may be required Procurement team involvement required Director sign off may be required for strategic purchases as determined by Procurement & Risk Services Manager		
Spend over £200,000	Key Decision. Please see the relevant Constitutional practice notes		

e. Strategic / Public Interest Considerations

Regardless of the contract value, Service Managers must consider the likely impact of the procurement on internal and external stakeholders. If the proposed activity is of a contentious nature, (perceived or actual) high risk, or relating to matters that affect public sensitivities, then advice should be taken from Procurement Team.

4.10.4 General Notes – Apply to all Procurement Procedures

a. eProcurement

eProcurement is a requirement under the Regulations; all communication with potential contractors must be in electronic format. eProcurement provides a comprehensive and complete audit trail, enabling the Council to meet its accountability and compliance obligations.

Officers must remain mindful of commercial confidentiality and Data Protection legislation in all dealings with suppliers and external bodies.

b. Procurement Documentation & Retention Thereof

The Procurement Team will work with Services to produce ITTs (Invitations to Tender) and RFPs (Requests for Proposals) for procurements above the EU threshold and of strategic importance.

OJEU procedures require a specific set of documents to be published as part of the tender pack.

The Legal Services Team will provide appropriate support and guidance as and when required in conjunction with Procurement Team.

Detailed document requirements are provided in the Procurement Manual and are in line with the Council's Document Retention Policy.

c. Responsible Procurement

The Council is required to consider how a procurement project might improve the economic, social and environmental wellbeing across its area.

These outcomes are fully defined in the Procurement Strategy; please consult the Procurement Team for more information.

Procurements that may result in pollution, waste management issues, high energy use or have any other notable environmental impact should have relevant mitigating requirements built into the specification. Evaluation and scoring schemes should contain criteria that enable Council staff to fully consider and score these elements in each submission.

d. Terms and Conditions of Contract

The Regulations must be adhered to when undertaking a procurement above the OJEU threshold.

All agreements must be in written English, price must be stated in British currency and subject to the jurisdiction of English Law.

British standards must be used where they are applicable to the subject of a contract.

Where the Procurement Team has undertaken a process on behalf of a Service Manager, the Lead Procurement Officer will take responsibility for instructing the Legal Team to prepare or approve the

terms and conditions of a contract if required. This applies whether the contract: was created by the Council; is based on the supplier's terms and conditions; or forms the basis of a call off agreement.

e. In-house Services

Where the Council has an in-house service, external companies must not be used for these services unless the Service Manager responsible for the in-house service confirms specifically that they are unable to meet the requirements on that occasion.

f. Public to Public Trading

If the Service Manager is considering entering into a contract with another public body, early advice must be sought from the Procurement Team. It should not be assumed that arrangements entered between the Council and other public bodies are outside the scope of the Regulations.

g. Contract Award / Value for Money

The Council operates under the 'Duty of Best Value' which requires overall value, including economic, environmental and social value, to be considered when reviewing any service provision.

Social Value is a statutory duty of the Council for services over the OJEU threshold, however, these principles should be applied to all the Council's procurement activity. Social value considerations should be built in at the pre-procurement stage; consulting with local third sector representatives as and when deemed appropriate.

The Regulations require the Council to award public contracts on the basis of MEAT (Most Economically Advantageous Tender). This is not 'cheapest wins' but looks at cost alongside qualitative, environmental and social criteria. The balance of award criteria will be considered, on this basis, on a procurement by procurement basis.

Due Diligence checks are undertaken to review performance, reputation and financial stability of prospective suppliers, and can be part of the award criteria or used as a pass/fail criterion.

4.10.5 Procurement Activity

a. Contracts up to £25,000

The Service Manager is responsible for these procurements, but may access Procurement Team support as required. Quotations, frameworks and DPS are all possible procurement options.

If the procurement is strategic in nature, high risk, impacts on other services or has wider implications across the Council and/or the provision of its services, apply the guidance under section c.

b. Contract Value of between £25,000 - £50,000

If the procurement is for non-critical, non-strategic goods, services or works the minimum requirement is for three quotations known as Request For Quotations (RFQs)

Frameworks, DPS can be used.

If the procurement is strategic in nature, high risk, impacts on other services or has wider implications across the Council and/or its service provision, apply the guidance under section C below.

c. Contract Value above £50,000 (and any strategic procurement) but below EU threshold

Prior to undertaking any type of procurement exercise, the service must engage with the Procurement Team to seek advice on the best and most appropriate process to meet the identified need. This will result in a Route to Market Assessment being prepared.

For strategic level contracts a Business Case may also be required. This could involve all, or some, of the following actions/plans:

1. Needs assessment
2. Route to market assessment
3. Plan for stakeholder engagement
4. Market assessment
5. Risk assessment
6. Financial implications assessment
7. Social value assessment
8. Environmental and Ecological Impact assessment

The Business Case must be signed off by the Service Manager and Procurement Services Manager

The Procurement Manual provides detailed guidance regarding these topics as well as proforma documents.

Framework and DPS options will be investigated as part of the Route to Market Assessment.

If the expected contract value is below the EU threshold by 10% or less please speak to the Procurement Team before taking any further action.

d. Contract Value above EU Threshold

A full OJEU tender process is required. This process must only be undertaken with the full involvement of the Procurement Team.

Please be aware that a full OJEU process takes around 12 weeks to complete. Please ensure you advise the Procurement Team of your plans in a timely manner to enable a schedule to be put in place.

Framework and DPS options will be investigated as part of the Route to Market Assessment which will require approval by the Procurement Services Manager and Management Team.

e. Executive Decision / Key Decision

An Executive Decision is taken by the Leader, the Cabinet or delegated to a committee of the Cabinet, a Cabinet member or an officer, and is publicly notifiable 28 days prior to being taken. A key decision has expenditure of above £200k or 20% or more of relevant expenditure. Full details see Part 2 Articles of the Constitution. Please refer to the Council's Monitoring Officer for how this may impact on your procurement.

4.10.6 Frameworks, DPS, eAuctions

a. External Agreements

The Council is eligible to use a wide range of Frameworks and DPS created by other public sector bodies. The Procurement Lead must ensure that the Council is lawfully able to use the Framework or DPS; the Procurement Team can provide advice and assistance on use. They must also establish that there is a clear benefit to the Council of using a Framework or DPS over other procurement options.

For procurements exceeding £100k or those of a particularly strategic nature, a Route to Market Assessment must be undertaken.

The Framework or DPS rules must be adhered to at all times.

Where the use of a Framework/DPS is subject to signing an Access Agreement, this document should be authorised by the Procurement Services Manager.

The Procurement Team must be advised of any contracts entered into via a Framework Agreement, regardless of value.

b. Internal Agreements

The Council can create its own Framework, DPS or eAuction, using its eProcurement software where it is in the Council's best interests to do so.

Use of the Framework/DPS will be mandatory across the Council for all goods, services and works that have been included in the scope of the arrangements.

Should the supply be of a significantly higher than normal value, the Procurement Manager should be consulted to establish if new rates should be sought, or an alternative procurement method used.

Frameworks can only be created with the agreement of the Procurement Manager.

c. Compliance Register

A compliance register entry can be used in some specific circumstances to waive the requirements of the Contract Procedure Rules. Full details of the specific circumstances are set out in the Procurement Manual. The compliance register waiver cannot be used for Procurements above the EU Thresholds.

d. Value Engineering & Negotiation

The Public Contract Regulations 2015 (PCRs) allow, in some circumstances, a tender process to be switched to a negotiated procedure. Please see the Procurement Manual for detail of a negotiated procedure. This can only be used where the nature of the original competition is not substantially altered and does not artificially restrict competition.

4.10.7 Contracts

a. Review and Monitoring

During contract preparation the Service Manager should appoint a Contract Manager (who may be mentioned in the contract itself) to monitor the Supplier's performance.

Further guidance regarding the management of contracts is covered in the Procurement Manual.

Details of the contract shall be stored centrally. The Procurement Team will maintain this information for key contracts

b. Reg 84, Contracts Finder, OJEU Award Notices

The Procurement Team will produce and publish information regarding contract award on all platforms required by the Regulations. In addition, the team will provide a post procurement report, if required by the Regulations or, by the service if not required by the regulations or if high risk procurement.

c. Contract Variation, Modification or Termination

During the term of a contract modifications may be proposed, which, if adopted, would result in additional works, goods or services. There are significant limitations upon the Council's ability to make such modifications, especially when the Regulations apply. There are tolerances allowed within contract variations under Reg 72.

Before discussing any variation or modification with the Supplier, the Service Manager must seek advice from the Procurement and Legal Teams.

d. Extensions

If an extension period is clearly stated in the contract, the option is available to extend. Before exercising a contractual right to extend the Service/Contract Manager must consider whether it is in the best interests of the Council to continue with the contract by examining performance to date and any changes in cost both under the terms of the contract and also in the wider market. variations.

Any extension will require the agreement of both parties. Please contact the Procurement Services Manager for further advice.

Governance Committee 11/3/20 – Appendix 2

Proposed Changes to Constitution

Any references numbers below are those contained with the Constitution. Yellow highlights show the proposed additions to the constitution. Deletions are references as needed below.

1. Council's Petition scheme

This item has been raised by Members for proposed change. The items suggested are designed to make it easier for existing e petition mechanisms to be utilised by persons signing a petition having to only provide a postcode (rather than full postal address) and further enabling communication with a petition organiser via email.

Proposed Changes

4.3.2.3 – the name and postal address **or email address** of the petition organiser. This is the person we will contact to explain how we will respond to the petition ...

4.3.2.4 – the name, signature and Chelmsford address **or postcode** of each person who signed the petition.

4.3.2.6 – second bullet change to the name and address **or postcode** of any person supporting the petition....

4.3.5.3 – c) the entries contain incomplete or invalid information such as no **postal address or postcode**

Template petition sheet

Second box – Address **or postcode** (this must be in Chelmsford City Council area)

Fourth box – Live/work/study address **or postcode** (please indicate which)

Guide – para 1.4 “should provide an address **or postcode** that shows that they live, work or study in Chelmsford”

2. Cover for sealing documents

2.15.6 – Documents are currently signed by the Mayor or Deputy Mayor and Legal & Democratic Services Manager or Chief Executive. To add further resilience it is suggested that the Chair of Governance Committee and the Director of Connected Chelmsford are added to the provisions.

3. Paper copies of Constitution

2.16.9 – the Council currently says it will publish the constitution on our website and make available paper copies for inspection – it is suggested that this is changed to **“ the Council will make appropriate arrangements for relevant parts of the constitution to be viewed “**

4. Infrastructure Fund

3.4.3.28 -30 – delete as there is no longer an infrastructure fund in existence

5. Call in Arrangements

Call in exists to enable non-Executive members to scrutinise Executive decisions. As the Council will ultimately take a decision on a matter the subject of a recommendation from the Cabinet, the opportunity for non-Executive members to scrutinise the decision/recommendation exists at that point.

Amend Rule 4.5.11.1 by adding at the end of that Rule:

An executive decision that constitutes a recommendation to the Council shall not be subject to call in.

6. Property matters - delegation

Slight clarification to the delegation so that it reads as follows

3.4.3.26 change to “negotiate and agree (taking valuation advice where appropriate) terms for all disposals or acquisitions (including for example but not limited to leases, sales, easements) of land or buildings, after consultation with the Cabinet Member for Fairer Chelmsford, up to a value of £200,000.”

7. Human Resources related

Governance Committee – Terms of reference

3.2.3 (c) Governance Committee number 9 – approve remuneration packages over £100K – move without change to Employment Committee

Officer scheme of delegation

3.4.3.38 (c) – this currently requires member consultation for staff (not statutory officers or Directors) in relation to redundancy/early retirement payments over £35K. It is suggested that this should be deleted. Officers will consult with the relevant Cabinet Member as necessary.

8. Licensing Committee – terms of reference

The Licensing Act 2003 (Section 6) provides that a licensing committee should be between 10-15 members. It is suggested that membership of the Regulatory and Licensing Committee is therefore reduced to the maximum 15 members.

9. Broadening Legal & Democratic Services Manager delegation to cover possible legal actions and disputes

There is a broad delegation enabling various types of legal action and negotiations to be authorised. Whilst implied that preventing such action and authorising at an earlier stage would equally be covered it is sensible to make this clearer. Hence a slightly broader definition is suggested

Proposed changes

2.15.3 Article 15 legal proceedings – add in after legal proceedings – “including prospective proceedings or potential disputes”

3.4.5.3 LDSM delegation add after legal proceedings “(including prospective proceedings, potential disputes” and criminal proceedings)

10. Changes to Terms of Reference for the Treasury Management Sub Committee

The constitution has not kept pace with longstanding practice at Chelmsford. The proposed changes to terms of reference with tracked changes are at Appendix 3 to this report. There is also a proposal to broaden the remit of the sub-committee to include investments eg property purchases.

11. Cabinet Members and Cabinet Deputies

Changes below are recommended to reflect current practice in relation to the appointment of Cabinet Members and Cabinet Deputies. It is recognised that additional changes are needed to develop further protocols and procedures to reflect current practice. These will need further consultation with members.

Proposed changes

Article 7, para 2.7.3 be amended to read:

Form and Composition of the Cabinet

The Cabinet will comprise the Leader and at least two, but not more than nine, councillors appointed by the Leader as full Cabinet Members. The Leader may also appoint Cabinet Deputies, who will not have voting rights but may attend Cabinet meetings and speak on behalf of the Cabinet Members for whom they act as Deputies. The appointment of Cabinet Members and Cabinet Deputies or any changes to them will be reported to the Annual Meeting of the Council or the next ordinary meeting of the Council.

The definition of a Cabinet Deputy to be inserted as a separate paragraph immediately after 2.7.3

Definition of Cabinet Deputy

To work with the relevant Cabinet member, have an overview of the entire Portfolio and assist in service development in particular areas of responsibility within the portfolio. This includes detailed investigation and consideration of particular service areas, to be translated into proposals for formal decision as required by the relevant Cabinet Member.

Amend para 2.7.11 to read:

Non-Cabinet Councillors

Each political group not represented on the Cabinet shall be entitled to nominate persons to speak on specific Cabinet functions, including those with the responsibility of Cabinet Deputies, at meetings of the Cabinet.

Further changes are also suggested

- delete paras 2.7.7 & 4.1.1.9
- Article 6, para 2.6.5, can be amended by deleting “the end of the term of office of the Leader, or”.

12. Planning/regulatory related

a) to enable matters to be referred by Director to the Planning Committee add in after Director in para 3.2.3 “ or which they decide to refer to Committee for decision”

b) 3.4.8.14 – delete requirement for Legal and Democratic Services Manager consultation before action is taken so that planning consult as necessary and not for routine matters. Similar requirements were also contained in relation to delegations in 3.4.3.31, 3.4.5.4, 3.4.5.6, 3.4.6.47, 3.4.6.48 & 3.4.7.1 – it is suggested that these and any other operational consultation requirements within the Constitution are removed.

c) Add at the end of para 5.2.7.1 of the Planning Code of Good Practice:

At the next meeting the Committee will take no further comments or questions on the application from the public, ward councillors or other consultees.

d) Add at the end of para 4.2.13.1 of the Cabinet and Committee Rules:

Exception: Where the Planning Committee is considering again an application that it has previously deferred, no further questions or statements from the public will be taken.

e) At the end of Part 4.2 Cabinet and Committee Rules add as a new rule 4.2.25.5:

A member of the Planning Committee who addresses the Committee on an application as a ward councillor shall leave the meeting while the Committee discusses and determines the application.

f) Amend delegation 3.4.8.11. (a) to read

Prior consultation with the appropriate Cabinet member in respect of:

(a) Responses to consultation by government and other authorities on planning policies and documents, and

Treasury Management <u>and Investment</u> Sub-Committee			
Membership: <u>Five Members; two Members of Cabinet (or deputies), to include the Cabinet Member with responsibility for financial matters, and three</u>Three Members of the Audit and Risk Committee. <u>The Cabinet Member with responsibility for financial matters to act as Chair.</u>			
Quorum	Substitutes	Politically Balanced	Frequency of meetings
<u>TWO</u>THREE	YES <u>Only Members of the Cabinet (or deputies) can substitute for the two Cabinet Members</u> Only members of the Audit and Risk Committee can substitute <u>for the remaining three Members</u>	YES	<u>THREE</u>FOUR PER YEAR
<u>F</u>Functions/Purpose		Delegations	
<p>1. To comment on the draft Treasury Management <u>and Investment</u> Strategies and make recommendations to Cabinet on <u>those Strategies</u>. that Strategy.</p> <p>2. To receive reports on Treasury Management <u>and Investment</u> activities and performance <u>three times per year on a quarterly basis</u>.</p> <p>3. To report to the Audit and Risk Committee on any breaches of Treasury <u>Management</u> Strategy, <u>Investment Strategy</u> or <u>Treasury Management</u> Procedures.</p> <p>4. On occasion of urgent matters to agree changes to the Treasury <u>Management or Investment</u> Strategy without reference to Full Council.</p> <p>5. In the light of performance and market conditions recommend changes to <u>either S</u>strategy going forward.</p> <p>6. The sub-committee is not intended to be a consultee to individual investment decisions.</p>		<u>N/A</u>	
Procedures	Part 4.2 – Cabinet and Committee Procedure Rules Part 4.9 – Financial Rules		
Codes	Part 5.1 – Code of Conduct for Councillors		

GOVERNANCE COMMITTEE

11 March 2020

AGENDA ITEM 8

Subject	MATERNITY AND PATERNITY POLICY
Report by	MONITORING OFFICER

Enquiries contact: Monitoring Officer - Lorraine Browne, 01245 606560,
Lorraine.browne@chelmsford.gov.uk

Purpose

The purpose of this report is to enable the committee to consider the adoption of a Maternity and Paternity Policy for Members.

Recommendation(s)

1. Adopt the attached Policy with immediate effect

Corporate Implications

Legal:	Relevant legal issues concerning equality related as well as local government related legislation have been considered. This includes the legal duty under the Local Government Act 1972 which requires Members to attend a meeting every 6 months. The suggested policy is legally compliant.
Financial:	None
Potential impact on climate change and the environment:	None
Contribution toward achieving a net zero carbon position by 2030:	None
Personnel:	None
Risk Management:	None
Equalities and Diversity:	Improved provision for new parents contributes towards increasing the diversity of experience, age and background of city Councillors. It will also assist with retaining experienced Councillors, particularly women, and making public office more accessible to individuals who might otherwise feel excluded from it. A full equality impact assessment has not been

	undertaken as the policy is based upon a policy developed by the LGA. Relevant considerations have therefore been taken into account in formulating the policy.
Health and Safety:	None
IT:	None
Other:	None

Consultees	
-------------------	--

<p>Policies and Strategies</p> <p>The report takes into account the following policies and strategies of the Council:</p> <p>Not applicable.</p>

1. Background

- 1.1 Politicians currently have no legal right to take maternity or paternity leave. Organisations may however voluntarily make such policies to enable and support Councillors in making reasonable arrangements at the time of birth or adoption.
- 1.2 Council on 22nd January 2020 requested that Governance Committee consider the adoption of such a policy.
- 1.3 Helpfully the Local Government Association (LGA) has considered this issue already and their policy template has been used in formulating a recommended Policy for Chelmsford City Council to voluntarily adopt.
- 1.4 Two minor changes to the LGA policy are suggested and have been highlighted in the policy attached. Firstly, in paragraph 1.9 as the Council does not have an existing policy relating to the notice periods to be given it is suggested that “reasonable notice” is inserted into the policy. Secondly, a new paragraph 3.4 is suggested for inclusion to cover the longer appointment period of a Leader of the Council.

2. Conclusion

- 2.1 Members are asked to approve the Policy set out in Appendix 1.

List of Appendices

Appendix 1 – Draft Maternity and Paternity Policy for Members

Background Papers

LGA Parental Leave Policy for Councillors

MATERNITY AND PATERNITY LEAVE POLICY

Introduction

This policy sets out Members' entitlement to maternity, paternity, shared parental and adoption leave and relevant allowances.

The objective of this policy is to ensure that insofar as possible Members are able to take appropriate leave at the time of birth or adoption, that both parents are able to take leave, and that reasonable and adequate arrangements are in place to provide cover for portfolio holders and others in receipt of Special Responsibility Allowances (SRA) during any period of leave taken.

Improved provision for new parents will contribute towards increasing the diversity of experience, age and background of city councillors. It will also assist with retaining experienced councillors, particularly women, and making public office more accessible to individuals who might otherwise feel excluded from it.

There is at present no legal right to parental leave of any kind for people in elected public office. This applies to MPs as well as councillors and has been the subject of lengthy debate. These policies can therefore only be implemented on a voluntary basis.

1. Leave periods

- 1.1 Members giving birth are entitled to up to 6 months maternity leave from the due date, with the option to extend up to a maximum 52 weeks by agreement if required.
- 1.2 In addition, where the birth is premature, the Member is entitled to take leave during the period between the date of the birth and the due date in addition to the 6 month's period. In such cases any leave taken to cover prematurity of 28 days or less shall be deducted from any extension beyond the initial 6 months.
- 1.3 In exceptional circumstances and only in cases of prematurity of 29 days or more, additional leave may be taken by agreement and such exceptional leave shall not be deducted from the total 52 weeks entitlement
- 1.4 Members shall be entitled to take a minimum of 2 weeks paternity leave if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren).
- 1.5 A member who has made Shared Parental Leave arrangements through their employment is requested to advise the Council of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from Council.

- 1.6 Where both parents are Members leave may be shared up to a maximum of 24 weeks for the first 6 months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks. Special and exceptional arrangements may be made in cases of prematurity.
- 1.7 A Member who adopts a child through an approved adoption agency shall be entitled to take up to 6 months adoption leave from the date of placement, with the option to extend up to 52 weeks by agreement if required.
- 1.8 Any Member who takes maternity, shared parental or adoption leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a 6 month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that 6 month period.
- 1.9 Any Member intending to take maternity, paternity, shared parental or adoption leave will be responsible for ensuring that they give **reasonable notice** to the Council, both in terms of the date their leave starts and the point at which they return.
- 1.10 Any Member taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

2. Basic Allowance

- 2.1 All Members shall continue to receive their Basic Allowance in full whilst on maternity, paternity or adoption leave

3. Special Responsibility Allowance

- 3.1 Members entitled to a Special responsibility Allowance shall continue to receive their allowance in full in the case of maternity, paternity, shared parental or adoption leave.
- 3.2 Where a replacement is appointed to cover the period of absence that person shall receive an SRA on a pro rata basis for the period of the temporary appointment.
- 3.3 The payment of Special Responsibility Allowances, whether to the primary SRA holder or a replacement, during a period of maternity, paternity, shared parental or adoption leave shall continue for a period of 6 months , or until the date of the next Annual Council Meeting, or until the date when the Member taking leave is up for election (whichever is soonest). At such a point, the position will be reviewed, and will be subject to a possible extension for a further 6 months period.
- 3.4 **In the case of a Leader of the Council their appointment is for up to 4 years so their appointment does not necessarily end at Annual Council Meeting – in accordance with this policy their appointment will continue for 6 months and will then be reviewed.**
- 3.5 Should a Member appointed to replace the member on maternity, paternity, shared parental or adoption leave already hold a remunerated position, the ordinary rules relating to payment of more than one SRA shall apply.
- 3.6 Unless the Member taking leave is removed from their post at an Annual General Meeting of the Council whilst on leave, or unless the Party to which they belong loses control of the Council during their leave period, they shall return at the end of their leave period to the

same post, to an alternative post with equivalent status and remuneration which they held before the leave began.

4. Resigning from Office and Elections

- 4.1 If a Member decides not to return at the end of their maternity, paternity, shared parental or adoption leave they must notify the Council at the earliest possible opportunity. All allowances will cease from the effective resignation date.
- 4.2 If an election is held during the member's maternity, paternity, shared parental or adoption leave and they are not re-elected, or decide not to stand for re-election, their basic allowance and SRA (if appropriate) will cease from the Monday after the election date when they would technically leave office.

GOVERNANCE COMMITTEE

11 March 2020

AGENDA ITEM 9

Subject	REVIEW OF THE COMPLAINTS ASSESSMENT CRITERIA AND COMPLAINTS PROCEDURE
Report by	MONITORING OFFICER

Enquiries contact: Monitoring Officer - Lorraine Browne, 01245 606560, lorraine.browne@chelmsford.gov.uk

Purpose

The purpose of this report is to update members on the outcome and suggested changes as a result of the review of both documents.

Recommendation(s)

1. That Members approve the changes to the Assessment Criteria and Complaints Procedure set out in the report below.

Corporate Implications

Legal:	Minor amendments are suggested but nonetheless these will help reduce complaints, misunderstandings and ultimately challenges to the decisions made
Financial:	None
Potential impact on climate change and the environment:	None
Contribution toward achieving a net zero carbon position by 2030:	None
Personnel:	None
Risk Management:	None
Equalities and Diversity:	None
Health and Safety:	None
IT:	None
Other:	None

Consultees	None
-------------------	------

Policies and Strategies

The report takes into account the following policies and strategies of the Council:

Complaints Assessment Criteria and Procedures.

1. Background

- 1.1 It is good practice to periodically review existing procedures to see if any changes are necessary.
- 1.2 Following a review of the Assessment Criteria and the Complaints Procedure for dealing with allegations that a Councillor has breached the code of conduct, the following minor changes are recommended by the Monitoring Officer:-

Complaints Assessment Criteria

- 1. Under Complaints that would not normally be referred for investigation

Insert a new para 2 “not in the public interest to do so”

And under para 4 add in a further example where there is no breach of the Code by inserting a new 4.4 “it relates to a councillor not replying to correspondence”

- 2. Under heading – A complaint may be referred to the Governance Committee where

Add to the heading after referred “for investigation or”

Complaints Procedure

- 1. Insert after 1.2 – It is important to note that the Monitoring Officer does not have jurisdiction to intervene in decisions made or other complaints in relation to parish business. This procedure relates solely to allegations against an identified Councillor specifying any potential breach(es) of the relevant authority’s Code of Conduct.
- 2. Amend 3.1 so as to read If you wish to make a complaint alleging that a councillor has breached the Code of Conduct, you should complete and submit the complaints form through the Council’s website. If you are unable to do so please contact the Council’s Monitoring Officer for further information on how you can submit your complaint.
- 3. Amend 3.3 to replace after please “ provide as much detail as possible and and respond promptly/within specified timeframes to any requests by the Monitoring Officer for further information” .

4. In 3.4 replace “please provide” with “You will be asked to provide”
5. 4.1.1., 4.3 - replace “investigation” with “action”
6. 4.2.3 - replace “whether the complaint merits formal investigation” with “what to do”
7. 4.4 - replace “call in” the police with “contact”. Also add in that the complainant will be notified that this contact has been made “where appropriate”
8. 5.1 - add after If “, after consultation with an Independent Person”
9. 5.3 - change end of paragraph after identify any corrections or inaccuracies in that draft report that you consider require more consideration.
10. add after necessary “and proportionate”

2. Conclusion

- 2.1 It is requested that Members approve these minor changes to the criteria and procedure.

List of Appendices

Appendix 1 – existing Assessment Criteria and Complaints Procedure

Background Papers

Nil

PART 5.1.2

COMPLAINTS PROCEDURE

Context

- 1.1 These “Arrangements” set out how a complaint can be made about an elected or co-opted member of this authority or of a Parish or Town Council within its area (“a Councillor”) who you believe has failed to comply with the Councillors’ Code of Conduct, and sets out how the authority will deal with allegations of a failure to do so.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Councillor or co-opted member of the Council or of a Parish or Town Council within the authority’s area, or of a Committee or Sub-Committee of the Council, has failed to comply with Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such arrangements must provide for the Council to appoint at least 1 Independent Person, whose views must be sought by it before it takes a decision on an allegation which it has decided shall be investigated and at any other stage of the procedure, or by a Councillor or co-opted member of the Council or a Parish or Town Council within its area against whom an allegation has been made.

2. The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Councillors, which is available for inspection on its website and on request from Reception at the Council Offices.
- 2.2 Each Parish and Town Council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, this should be available on the website operated by the relevant Council or alternatively you can contact the Parish or Town Clerk to tell you how else you can obtain a copy or inspect it.

3. Making a complaint

- 3.1 If you wish to make a complaint, please contact the Monitoring Officer:
 - In writing at - Chelmsford City Council, Civic Centre, Duke Street, Chelmsford, Essex, CM1 1JE; or
 - by email at - standards@chelmsford.gov.uk
- 3.2 The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members’ interests and who is

responsible for administering the system in respect of complaints of councillor misconduct.

- 3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the Council's website, next to the Code of Conduct, and is available on request from the reception at the Council Offices.
- 3.4 Please provide your name and a contact address or email address, so that receipt of your complaint can be acknowledged and you can be kept informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. The Monitoring Officer will consider your request and if granted will not disclose your name and address to the Councillor against whom you make the complaint, without your prior consent.
- 3.5 The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 3.6 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.
- 3.7 The Complaints Procedure Flowchart is annexed at **Annex 1** for your assistance.

4. Will your complaint be investigated?

- 4.1 The Monitoring Officer will review every complaint received and, may consult with the Independent Person before taking a decision as to whether it:
 - 4.1.1 Merits no further investigation
 - 4.1.2 Merits further investigation
 - 4.1.3 Should be referred to the Governance Committee
- 4.2 This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria annexed at **Annex 2**.
 - 4.2.1 Where the Monitoring Officer has taken a decision, they will inform you of their decision and the reasons for that decision.

- 4.2.2 Where the Monitoring Officer requires additional information in order to come to a decision, we may come back to you for such information, and may request information from the Councillor against whom your complaint is directed.
- 4.2.3 Where your complaint relates to a Parish or Town Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the relevant Council before deciding whether the complaint merits formal investigation.
- 4.3 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Councillor accepting that their conduct was unacceptable and offering an apology, or other action agreed by the authority. Where the Councillor or the authority makes a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.
- 4.4 If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies and will confirm to you that this has been done.

5. How is the investigation conducted?

- 5.1 If the Monitoring Officer decides that a complaint merits further investigation, they may appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether they need to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen, and who needs to be interviewed.
- 5.2 The Investigating Officer or Monitoring Officer will normally write to the Councillor against whom you have complained and provide the, with a copy of your complaint, and ask the member to provide their explanation of events, and to identify what documents they need to see and who needs to be interviewed. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Councillor, or delay notifying them until the investigation has progressed sufficiently.

- 5.3 At the end of the investigation, the Investigating Officer or Monitoring Officer will produce a draft report (“the Investigation Report”) and will send copies of that draft report, in confidence, to you and to the Councillor concerned, to give you both an opportunity to identify any matter in that draft report that you disagree with or which you consider requires more consideration. Any comments received will be taken into account before the report is finalised.
- 5.4 Where an Investigating Officer has been appointed, they will send their final report to the Monitoring Officer. This is summarised in **Annex 3**.

6. What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

- 6.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigation Report and, if they are satisfied that the report is sufficient, the Monitoring Officer will write to you and to the Councillor concerned, as well as any relevant Parish or Town Council, notifying you that they are satisfied that no further action is required, and enclose a copy of the Report.
- 6.2 If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report before deciding what further action is required.

7. What happens if the Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

- 7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigation report and will then either send the matter for a hearing before the Governance Committee or, after consulting the Independent Person, seek an informal resolution.

7.1.1 Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult with the Independent Person and with you as complainant and seek to agree what you may consider to be a fair resolution, which also helps to ensure higher standards of conduct for the future. Such resolution may include the Councillor accepting that their conduct was unacceptable and offering an apology, and/or other action recommended by the Council. If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Governance Committee, and where appropriate the Parish or Town Council, for information, but will take no further action.

7.1.2 Hearing

i) If the Monitoring Officer considers that informal resolution is not appropriate, or the Councillor concerned is not prepared to undertake any other proposed action that has been recommended, such as giving an apology, then the Monitoring Officer will convene a meeting of the Governance Committee to consider the Investigation Report.

ii) The Committee may conduct a hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Councillor.

iii) The Council has agreed a procedure for hearing complaints, which is attached as **Annex 4** to these arrangements.

iv) At the hearing-

- The Investigating Officer or the Monitoring Officer will present their report, call such witnesses as considered necessary and make representations to substantiate the conclusion that the member has failed to comply with the Code of Conduct.
- The Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Committee.
- The Councillor will then have an opportunity to give evidence, to call witnesses and to make representations to the Committee as to why they consider that they did not fail to comply with the Code of Conduct.

v) The Committee, with the benefit of any advice from the Independent Person, may either conclude that the Councillor -

- Did not fail to comply with the Code of Conduct, and dismiss the complaint; or
- Did fail to comply with the Code of Conduct, in which case the Chair will inform the Councillor of this finding and the Committee will then consider what action, if any, the Committee should take as a result of the Councillor's failure to comply with the Code of Conduct. In doing this, the Committee will give the Councillor an opportunity to make representations to the Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8. What action can the Governance Committee take where a member has failed to comply with the Code of Conduct?¹

8.1 The Council has delegated to the Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Committee may:-

- 8.1.1 Publish its findings in respect of the member's conduct;
- 8.1.2 Report its findings to Council or relevant Parish or Town Council for information;
- 8.1.3 Recommend to Council or the relevant Parish or Town Council that they be issued with a formal censure or be reprimanded
- 8.1.4 Recommend to the Councillor's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that they are removed from any or all Committees or Sub-Committees of the Council;
- 8.1.5 Recommend to the Leader of the Council that the Councillor is removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.1.6 Instruct the Monitoring Officer or recommend that the relevant Parish or Town Council arrange training for the Councillor;
- 8.1.7 Remove or recommend to the relevant Parish or Town Council that the Councillor be removed from all outside appointments to which they have been appointed or nominated by that authority;
- 8.1.8 Withdraw or recommend to the relevant Parish or Town Council that it withdraws facilities provided to the Councillor by the Council, such as a computer, website and/or email and internet access; or
- 8.1.9 Exclude or recommend to the relevant Parish or Town Council that it excludes the member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 8.1.10 The Committee has no power to suspend or disqualify the Councillor or to withdraw the payment of any allowances payable to them.

9. What happens at the end of the hearing?

9.1 At the end of the hearing, the Chair will state the decision of the Governance Committee as to whether the Councillor failed to comply with the Code of Conduct and as to any actions or sanctions the Committee has decided to impose or recommend.

9.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Committee, and

–

9.2.1 Send a copy to you, to the Councillor concerned and any relevant Parish or Town Council,

9.2.2 Make that decision notice available for public inspection and on the Council's website; and

9.2.3 Report the decision to the next convenient meeting of the Council.

10. What is the Governance Committee?

10.1 It is a Committee comprising of Councillors, the terms of reference of which include the management of the Standards regime under the Localism Act 2011.

10.2 The Committee has decided that it will comprise a maximum of seven Councillors of the Council, including not more than two members of the City Council's Executive and comprising members drawn from other political parties, as well as representatives from the Parish and Town Councils. Subject to those requirements, it is appointed on the nomination of the City Council party group leaders in proportion to the strengths of each party group on the City Council.

10.3 If the Councillor complained about is a member of a Parish or Town Council a Parish or Town Council representative of the Governance Committee will also be invited to attend.

10.4 The Independent Person is invited to attend all meetings of the Committee and their views are sought and taken into consideration before the Committee takes any decision on whether the Councillor's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with it.

11. Who is the Independent Person?

11.1 The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

11.2 A person cannot be “independent” if they:

11.2.1 Are, or have been within the past 5 years ending on 30th June 2012, a member, co-opted member or officer of the City Parish or Town Councils, except in the case of Independent Members they can be appointed if they resigned before the 1st July 2012 and their appointment was made before 1st July 2013;

11.2.2 Are a relative or close friend, of a person within paragraph 11.2.1 above. For this purpose, a “relative” means:

i) Spouse or civil partner;

ii) Living with the other person as husband and wife or as if they were civil partners;

iii) Grandparent of the other person;

iv) A lineal descendent of a grandparent of the other person;

v) A parent, sibling or child of a person within paragraphs 11.2.2(i) or 11.2.2(ii); or

vi) A spouse or civil partner of a person within paragraphs 11.2.2(iii), 11.2.2(iv) or 11.2.2(v); or

vii) Living with a person within paragraphs 11.2.2(iii), 11.2.2(iv) or 11.2.2(v) as husband and wife or as if they were civil partners.

12. Revision of these arrangements

12.1 The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Committee the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13. Appeals

13.1 There is no right of appeal for you as complainant or for the Councillor against a decision of the Monitoring Officer or of the Committee.

13.2 If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman at www.lgo.org.uk/making-a-complaint

PART 5.1.2 ANNEX 3

COMPLAINTS ASSESSMENT CRITERIA

Complaints will not normally be referred for investigation where-

1. The complaint is not considered sufficiently serious to warrant investigation;
or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct for example-
 - 4.1 It relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
 - 4.2 It is about someone who is no longer a Councillor; or
 - 4.3 There is insufficient information available for a referral; or
5. It is a complaint about matters not covered by the Code such as an alleged breach about the requirements surrounding disclosable pecuniary interests; or
6. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances such as an allegation of bullying or harassment; or
7. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
8. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Governance Committee; or
9. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
10. Where the Councillor complained of has apologised and/or admitted to making an error and the matter would not warrant a more serious sanction.

A Complaint may be referred to the Governance Committee where-

1. It is serious enough, if proven, to justify the range of actions available to the Governance Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or
3. It would be difficult or inappropriate for the Monitoring Officer to investigate the complaint for example-
 - 3.1 The complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer; or
 - 3.2 The complaint is about a high profile Member such as the Leader of the Council; or
4. Such other complaints as the Monitoring Officer considers it would not be appropriate for him/her to investigate.

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the complaint is relatively minor.

GOVERNANCE COMMITTEE

11 March 2020

AGENDA ITEM 10

Subject:	COMPLAINTS TO THE LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN – ANNUAL REVIEW
Report by:	LEGAL AND DEMOCRATIC SERVICES MANAGER

Enquiries contact: Brian Mayfield, Democratic Services Manager, 01245 606923, brian.mayfield@chelmsford.gov.uk

Purpose

This report provides information on complaints dealt with by the Local Government and Social Care Ombudsman about the City Council in 2018-2019 and the Annual Letter from the Commission dated 24 July 2019.

Recommendation

Subject to any comments members might have, that the report be noted.

Corporate Implications

Legal:	None
Financial:	None as there were no complaints in respect of which the Council had to pay compensation or ex gratia payments
Potential impact on climate change and the environment:	None
Contribution toward achieving a net zero carbon position by 2030:	None
Personnel:	None
Risk Management:	None
Equalities and Diversity:	Complaints are monitored by equalities representatives in each service to ensure that there is no disproportionate dissatisfaction by the different equality target groups. This data is considered as part of the assessment process to ensure that there is no discrimination in service delivery.
Health and Safety:	None
IT:	None
Other:	None

Consultees	All services.
-------------------	---------------

Policies and Strategies

The report takes into account the following policies and strategies of the Council:

Complaints procedures

1. Introduction

- 1.1 The Local Government and Social Care Ombudsman (LGO) investigates complaints about councils and certain other bodies. The LGO's aims are to promote good service delivery and customer care. It investigates complaints about most council matters including and in particular, as far as this Council is concerned, housing and planning functions.
- 1.2 The service it provides is independent, impartial and free. The LGO looks at the process of decision making, rather than the decision itself and cannot investigate complaints where there are other means of obtaining redress such as via planning appeals or through the courts. The process requires people to use a council's complaints procedures first before complaining to the LGO if they are dissatisfied with the response.
- 1.3 The duty of the LGO is to establish whether or not there has been maladministration or fault and, if so, whether it led to injustice. Maladministration means that a matter was not dealt with properly, for example because procedures were not correctly followed. Injustice means that the maladministration led to the complainant being unfairly treated.
- 1.4 A significant proportion of complaints to the LGO are not formally investigated as they are referred to local authorities to deal with through their local complaint arrangements if those have not been followed. Similarly, many complaints are not formally determined by the LGO because the complaint is settled during the course of the investigation ('local settlements') by being referred back to the local authority. The LGO encourages such local settlements whenever possible.
- 1.5 Each year, the LGO writes to each authority to summarise the work of the Commission in relation to that authority and its performance generally in comparison with other authorities. The letter and the information on complaints against the Council is submitted to this Committee for its consideration and comments. The letter for 2018-2019 is at **Appendix 1** to this report.

2. Complaints received in 2018-19

- 2.1 Year on year the number of enquiries and complaints fluctuates and, in 2018-19, 13 enquiries and complaints relating to this Council were received by the Commission. This compares to 18 in 2017-18. The number of complaints received does not necessarily tally with the number of complaints decided as the investigation of complaints can cover two annual periods.
- 2.2 In comparison with previous years, the number of complaints received last year reflected a general downward trend over the past few years:

<u>2011/12</u>	<u>2013/14</u>	<u>2014/15</u>	<u>2015/16</u>	<u>2016/17</u>	<u>2017/18</u>	<u>2018/19</u>
24	21	17	16	11	18	13

- 2.3 During 2018-19, the Commission made decisions on 11 complaints about the Council. (Some of the complaints were submitted in the year before they were decided, hence the discrepancy between the number submitted (13) and the number decided (11).)
- Five were referred back for local resolution
 - Four were closed after initial enquiries
 - One was not upheld
 - One was incomplete or invalid
- 2.4 In the Annual Letter, the Ombudsman says: "I want to emphasise the statistics in this letter reflect the data we hold and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to your authority, some of whom may never contact you."
- 2.5 A summary of those cases on which decisions were made and about which the Council is aware is set out in **Appendix 2**. It is pleasing that no complaints were upheld. Had any been upheld, they would have been the subject of detailed reports to the Governance Committee and several were submitted to members in 2017-18.
- 2.6 The number of complaints received tends to fluctuate from year to year, as do the Ombudsman's decisions on whether or not to uphold them. Seen in the context of complaints against other councils, Chelmsford is neither better nor worse than other authorities of a similar size and with similar responsibilities. Comparative information can be seen by following the link entitled Your Council's Performance on page 2 of the Annual Letter.
3. Conclusion
- 3.1 The Ombudsman's Annual Letter reveals a decrease in the number of complaints against the Council in 2018-19 and that none were upheld, a significant improvement on the previous year. The Ombudsman has expressed no concerns about the way in which the Council handles complaints or about its internal processes in general.

Appendices and Background Papers

Appendix 1 - Letter from Local Government Ombudsman dated 24 July 2019, including the statistics of the Council's performance

Appendix 2 - Cases decided in 2018-19 of which the Council is aware.

24 July 2019

By email

Nick Eveleigh
Chief Executive
Chelmsford City Council

Dear Mr Eveleigh

Annual Review letter 2019

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman about your authority for the year ending 31 March 2019. The enclosed tables present the number of complaints and enquiries received about your authority, the decisions we made, and your authority's compliance with recommendations during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

Complaint statistics

As ever, I would stress that the number of complaints, taken alone, is not necessarily a reliable indicator of an authority's performance. The volume of complaints should be considered alongside the uphold rate (how often we found fault when we investigated a complaint), and alongside statistics that indicate your authority's willingness to accept fault and put things right when they go wrong. We also provide a figure for the number of cases where your authority provided a satisfactory remedy before the complaint reached us, and new statistics about your authority's compliance with recommendations we have made; both of which offer a more comprehensive and insightful view of your authority's approach to complaint handling.

The new statistics on compliance are the result of a series of changes we have made to how we make and monitor our recommendations to remedy the fault we find. Our recommendations are specific and often include a time-frame for completion, allowing us to follow up with authorities and seek evidence that recommendations have been implemented. These changes mean we can provide these new statistics about your authority's compliance with our recommendations.

I want to emphasise the statistics in this letter reflect the data we hold and may not necessarily align with the data your authority holds. For example, our numbers include

enquiries from people we signpost back to your authority, some of whom may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website, alongside our annual review of local government complaints. For the first time, this includes data on authorities' compliance with our recommendations. This collated data further aids the scrutiny of local services and we encourage you to share learning from the report, which highlights key cases we have investigated during the year.

New interactive data map

In recent years we have been taking steps to move away from a simplistic focus on complaint volumes and instead focus on the lessons learned and the wider improvements we can achieve through our recommendations to improve services for the many. Our ambition is outlined in our [corporate strategy 2018-21](#) and commits us to publishing the outcomes of our investigations and the occasions our recommendations result in improvements for local services.

The result of this work is the launch of an interactive map of council performance on our website later this month. [Your Council's Performance](#) shows annual performance data for all councils in England, with links to our published decision statements, public interest reports, annual letters and information about service improvements that have been agreed by each council. It also highlights those instances where your authority offered a suitable remedy to resolve a complaint before the matter came to us, and your authority's compliance with the recommendations we have made to remedy complaints.

The intention of this new tool is to place a focus on your authority's compliance with investigations. It is a useful snapshot of the service improvement recommendations your authority has agreed to. It also highlights the wider outcomes of our investigations to the public, advocacy and advice organisations, and others who have a role in holding local councils to account.

I hope you, and colleagues, find the map a useful addition to the data we publish. We are the first UK public sector ombudsman scheme to provide compliance data in such a way and believe the launch of this innovative work will lead to improved scrutiny of councils as well as providing increased recognition to the improvements councils have agreed to make following our interventions.

Complaint handling training

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. In 2018-19 we delivered 71 courses, training more than 900 people, including our first 'open courses' in Effective Complaint Handling for local authorities. Due to their popularity we are running six more open courses for local authorities in 2019-20, in York, Manchester, Coventry and London. To find out more visit www.lgo.org.uk/training.

Finally, I am conscious of the resource pressures that many authorities are working within, and which are often the context for the problems that we investigate. In response to that situation we have published a significant piece of research this year looking at some of the

common issues we are finding as a result of change and budget constraints. Called, [Under Pressure](#), this report provides a contribution to the debate about how local government can navigate the unprecedented changes affecting the sector. I commend this to you, along with our revised guidance on [Good Administrative Practice](#). I hope that together these are a timely reminder of the value of getting the basics right at a time of great change.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M King', with a horizontal line underneath.

Michael King
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England

Local Authority Report: Chelmsford City Council

For the Period Ending: 31/03/2019

For further information on how to interpret our statistics, please visit our [website](#)

Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
0	1	1	0	2	2	5	1	1	13

Decisions made

Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Detailed Investigations			Total
				Not Upheld	Upheld	Uphold Rate (%)	
1	0	5	4	1	0	0	11

Note: The uphold rate shows how often we found evidence of fault. It is expressed as a percentage of the total number of detailed investigations we completed.

Satisfactory remedy provided by authority

Upheld cases where the authority had provided a satisfactory remedy before the complaint reached the Ombudsman	% of upheld cases
0	0

Note: These are the cases in which we decided that, while the authority did get things wrong, it offered a satisfactory way to resolve it before the complaint came to us.

Compliance with Ombudsman recommendations

Complaints where compliance with the recommended remedy was recorded during the year*	Complaints where the authority complied with our recommendations on-time	Complaints where the authority complied with our recommendations late	Complaints where the authority has not complied with our recommendations	
0	0	0	0	Number
	0%		-	Compliance rate**
<p>Notes: * This is the number of complaints where we have recorded a response (or failure to respond) to our recommendation for a remedy during the reporting year. This includes complaints that may have been decided in the preceding year but where the data for compliance falls within the current reporting year. ** The compliance rate is based on the number of complaints where the authority has provided evidence of their compliance with our recommendations to remedy a fault. This includes instances where an authority has accepted and implemented our recommendation but provided late evidence of that.</p>				

Complaints of which the City Council is aware decided by the Ombudsman in 2018-19

Complaint reference	Category	Summary of decision	Remedy
18002296	Housing	Ms X disagreed with the decision of the Council that she was intentionally homeless. She completed Stage 1 of the Council's internal complaints procedure before complaining to the Ombudsman, who advised her that she must complete Stage 2 of the internal process before her complaint could be considered. She is yet to do so. Premature decision – advice given. Referred back for local resolution	None
18005813	Corporate and Other Services	Mr X complained the Council had failed to respond to his complaint about overgrown land at the back of his property. The Ombudsman decided not to investigate Mr X's complaint. This is because the Council does not own the land where he says ivy and brambles, which have caused damage to his property, grow. Land not the Council's responsibility, therefore out of Ombudsman's jurisdiction	None
17016921	Environmental Services, Public Protection and Regulation	The Ombudsman will not investigate Ms B's complaint a council officer has bullied and harassed her and has made up conditions for the licence for her dog boarding establishment to intimidate her. Part of the complaint is late and further consideration of the remaining complaint is unlikely to find fault by the Council. Complaint not warranted	None
18008795	Environmental Services & Public Protection & Regulation	Mr X complained about the Council reducing his waste collection from three to two bins per collection. The Ombudsman would not investigate this complaint. This is because there was insufficient evidence of fault on the Council's part which has caused any injustice to Mr X. Complaint not warranted	None

Complaints of which the City Council is aware decided by the Ombudsman in 2018-19

17019589	Planning and Development	Mr X said the Council is at fault in how it considered his neighbour's planning application. The Ombudsman's view was that the evidence did not demonstrate there had been fault by the Council. For this reason, the Ombudsman consideration of this complaint. Complaint closed after initial enquiries	None
18013714 & 18013738	Housing	A complaint made by Ms X and one by her on behalf of a friend regarding the handling of their homelessness application and the attitude of staff. She completed Stage 1 of the Council's internal complaints procedure before complaining to the Ombudsman, who advised her that she must complete Stage 2 of the internal process before her complaint could be considered. She is yet to do so. Premature decision – advice given. Referred back for local resolution	None

For the above seven complaints the Council received detailed information and a formal decision letter from the Ombudsman.

The Council has no record of and no detailed information from the Ombudsman, on the other four complaints decided in 2018-19. It is assumed that those complaints were either not valid complainants or were sent direct to the Ombudsman who advised the complainants to address them first to the Council but they did not do so.

GOVERNANCE COMMITTEE

11 March 2020

AGENDA ITEM 11

Subject	ANNUAL WHISTLEBLOWING REPORT
Report by	DIRECTOR OF CONNECTED CHELMSFORD

Enquiries contact: Lorraine Browne, Legal and Democratic Services Manager, tel: 01245 606560, email: lorraine.browne@chelmsford.gov.uk

Purpose

To provide an annual update to members of the Governance Committee on the operation of the Council's Whistleblowing Policy and Procedure.

Recommendation(s)

1. To note the contents of the report as regards complaints received.

Corporate Implications

Legal:	The legislative requirements are addressed in the report
Financial:	None, although the process enables reporting of potential fraudulent activities and malpractices that may affect the financial position of the Council
Potential impact on climate change and the environment:	None
Contribution toward achieving a net zero carbon position by 2030:	None
Personnel:	The process underpins the promotion of a culture of openness and transparency and creates an environment where whistleblowing is encouraged and supported.
Risk Management:	The process assists to minimise the risk of malpractice and fraud within the Council
Equalities and Diversity:	The policy and procedure has not changed so no impact assessment is required
Health and Safety:	Establishment of whistleblowing procedures ensures that both Council employees and users of its services are able to

	confidentially report matters of concern (including those with H&S implications) and for these to be proactively addressed.
IT:	None
Other:	None

Consultees	Director of Connected Chelmsford Financial Services Manager
-------------------	--

<p>Policies and Strategies</p> <p>The report takes into account the following policies and strategies of the Council:</p> <ul style="list-style-type: none"> ○ Whistleblowing Policy and Procedure ○ Fraud and Corruption Strategy ○ Anti-bribery Policy
--

1.0 Background

- 1.1 The Council's Whistleblowing Policy and Procedure was first introduced in October 1997. Since then the policy has been updated and reviewed regularly to ensure it is compliant with any changes in legislation or guidance.
- 1.2 The policy establishes a system whereby employees of the Council, including agency workers, consultants, users of its services, members of the public and Councillors, are able to report suspected wrongdoing. By doing so the Council publically declares that, it does not tolerate malpractice or fraudulent activities in the operation of its services.
- 1.3 The Council's Whistleblowing Policy highlights the legal protection for workers who "blow the whistle" (i.e. the "Whistleblower") and ensure that they do not suffer any recriminations, victimisation or harassment as a result of raising a concern with the Council. An employee who makes a protected disclosure benefits from legal protection if he/she has a reasonable belief that the issue being raised is in the public interest.
- 1.4 Employees are protected under the Public Interest Disclosure Act 1998 as amended, which means that the Council cannot discriminate against them because they made such a complaint. That protection is not subject to any qualifying period of employment and is referred to as a 'day one' right in employment law. The principles of protection are also applied to non employees under the Council's Whistleblowing Policy and Procedure.

- 1.5 The Council's appointed Whistleblowing Officer is the Director of Connected Chelmsford. However, the day to day management and handling of issues raised is dealt with by the Legal & Democratic Services Manager or, in their absence, the Human Resources Services Manager. Both have delegated authority to receive and investigate complaints under the procedure whilst safeguarding the confidentiality of the complainant as far as is possible. Normally this means the identity of the whistleblower will only be known by the officer managing the complaint and any investigator. All complaints raised are fully investigated and dealt with swiftly.
- 1.6 In many cases the issue raised is not strictly a whistleblowing matter but a complaint about a service received from the Council. In those cases the matter is passed to the relevant department to resolve direct with the complainant. This is noted on the papers and is then dealt with outside the Whistleblowing procedure.
- 1.7 As is best practice an annual report is made to the Governance Committee regarding the issues addressed. The last such report was made in October 2018 and this report provides the update since that time.

2. Position Update and Analysis

- 2.1 The table below provides a history of the number of whistleblowing reported cases received over the previous nine years:

Year	Number of complaints received
2009 - 2010	8
2010 - 2011	5
2011 - 2012	5
2012 - 2013	6
2013 - 2014	13
2014 - 2015	12
2015 - 2016	10
2016 - 2017	13
2017 - 2018 (to Oct 2017 only)	8
2018-2019 (to Oct 2018 only)	13
2019 (October 2018 – December 2019)	5

- 2.2 A summary of the complaints received since October 2018 are set out below. Members are reminded that further information cannot be provided due to the confidentiality protection to which whistleblowers are entitled. Only 1 complaint was a valid whistleblowing complaint. This was investigated by the Monitoring Officer and no evidence of wrongdoing was found. One area for improvement in relation to working practices was identified and has been actioned. Of the remaining 4 complaints, 2 complaints were received about the actions of other organisations and were not capable of resolution by the City Council. 1 complaint was received that the complainant failed to pursue/discuss and the matter was closed. The final complaint was referred to the relevant service for action.

How they were received?

By Post	0
Telephone call	0
E-mail via whistleblowing@chelmsford.gov.uk	5
Webpage via Achieve Form	0

How they were processed

No public interest dimension so could not be dealt with as a WB complaint, or was instead assessed and investigated as a service complaint	2
Assessed and investigated as a whistleblowing complaint.	1
Not capable of resolution by the City Council (i.e. outside our jurisdiction)	2

- 2.3 It is apparent that both staff and members of the public have confidence in the Council and are willing to raise concerns. The electronic facilities for logging complaints through the dedicated whistleblowing mailbox and through use of active forms on the website are clearly the preferred methods of communication. The publicity arrangements for whistleblowing also appear to be embedded and working well.
- 2.4 Every effort is made to maintain confidentiality where requested. When this is not possible complainants are advised and provided with the reasons. Complainants' details are not disclosed until they are made aware or how they will be used. This allows officers to follow up on concerns raised and to provide progress updates and feedback when a case is concluded. This approach instils trust and confidence in the arrangements in place and fosters a relationship of openness and accountability.
- 2.5 The policy forms an essential part of newly appointed staff induction training and contained in the information pack issued. It is easily accessible on the Council's intranet and internet sites. Posters are also placed on staff notice boards to remind them about their responsibilities and the importance of whistleblowing at work. Periodic reminders are also issued to remind and update staff.
- 2.6 The Council's Whistleblowing Policy and Procedures can be easily accessed through our website.

3. Conclusion

- 3.1 Members of the Governance Committee are asked to note the details as to the complaints received for the period from October 2018 to end of December 2019.

List of Appendices

None

Background Papers

Nil

GOVERNANCE COMMITTEE

11 March 2020

AGENDA ITEM 12

Subject	ANNUAL REPORT FOR 2019-20 REGULATION OF INVESTIGATORY POWERS ACT 2000 ("RIPA")
Report by	Lorraine Browne, Legal and Democratic Services Manager

Enquiries contact: Lorraine Browne, Legal & Democratic Services Manager,
Email: lorraine.browne@chelmsford.gov.uk Tel: 01245 606560

Purpose

To provide an annual report on the use of RIPA.

Recommendation(s)

1. It is recommended that the report be noted.

Corporate Implications

Legal:	The Council must comply with the legislation governing the use of covert surveillance techniques as well as to action recommendations made by the Office of Surveillance Commissioners.
Financial:	None
Potential impact on climate change and the environment:	None
Contribution toward achieving a net zero carbon position by 2030:	None
Personnel:	None
Risk Management:	These issues are addressed in the report
Equalities and Diversity:	None
Health and Safety:	None
IT:	None
Other:	None

Policies and Strategies

The report takes into account the following policies and strategies of the Council:

None are directly relevant, but this is a statutory function that the Council is required to address.

1. Introduction

1.1 This annual report provides an update detailing the Council's use of RIPA and any national changes to RIPA powers in the period in 2019. The last annual report to the Committee was made on 18th June 2019.

2. Update on RIPA activities

2.1 No uses of RIPA were made for the period January 2019 and December 2019.

3. Legislative developments to RIPA

3.1 During 2019 there have been no legislative changes to RIPA, and the policy has therefore not required amendment during that period.

4. Conclusion

4.1 There have been no recorded uses of RIPA during the last 12 months.

List of Appendices

None

Background Papers

Nil

GOVERNANCE COMMITTEE

11 March 2020

AGENDA ITEM 13

Subject	MODEL CODE OF CONDUCT FOR MEMBERS
Report by	MONITORING OFFICER

Enquiries contact: Monitoring Officer - Lorraine Browne, 01245 606560,
lorraine.browne@chelmsford.gov.uk

Purpose

The purpose of this report is to update members on the current position concerning a proposed model Code of Conduct

Recommendation(s)

1. That the response to the consultation is delegated to the Monitoring officer in consultation with the Chair of Governance Committee

Corporate Implications

Legal:	When implemented it will be a legal requirement that the Council adopts the new Code of Conduct. It is sensible for the Council to make delegated arrangements to consider whether to respond to the consultation which is due to take place between scheduled Governance Committee meetings.
Financial:	None
Potential impact on climate change and the environment:	None
Contribution toward achieving a net zero carbon position by 2030:	None
Personnel:	None
Risk Management:	None
Equalities and Diversity:	None
Health and Safety:	None
IT:	None
Other:	None

Consultees	None
-------------------	------

Policies and Strategies

The report takes into account the following policies and strategies of the Council:

Current Code of Conduct

1. Background

- 1.1 The Committee on Standards in Public Life published a report in January 2019 that recommended the LGA creates a model Code of Conduct in consultation with representative bodies of councillors and officers of all tiers of local government. The LGA has appointed an external consultant to work with the LGA in reviewing the Code.
- 1.2 A proposed Model Code of Conduct is currently being drafted and will be consulted upon between 16 March and 24 April. It is likely that Chelmsford City Council would wish to respond to this and accordingly due to timescales a delegation in consultation with the Chair of Governance Committee is sought to formulate an appropriate response to the consultation.

2. Conclusion

- 2.1 It is requested that Members approve a delegation to the Monitoring Officer to respond to the LGA consultation relating to a proposed model Code of Conduct in consultation with the Chair of Governance Committee.

List of Appendices

None

Background Papers

LGA email dated 18/2/20 concerning proposed consultation

GOVERNANCE COMMITTEE

11 March 2020

AGENDA ITEM 14

Subject	GIFTS AND HOSPITALITY REPORT
Report by	MONITORING OFFICER

Enquiries contact: Monitoring Officer - Lorraine Browne, 01245 606560,
Lorraine.browne@chelmsford.gov.uk

Purpose

To update the Committee on offers of Gifts and Hospitality from January to December 2019.

Recommendation(s)

1. It is recommended that the report be noted.

Corporate Implications

Legal:	None
Financial:	None
Potential impact on climate change and the environment:	None
Contribution toward achieving a net zero carbon position by 2030:	None
Personnel:	None
Risk Management:	None
Equalities and Diversity:	None
Health and Safety:	None
IT:	None
Other:	None

Consultees	None
-------------------	------

Policies and Strategies

The report takes into account the following policies and strategies of the Council:

None

1. Background

1.1 At its meeting on 20th January 2010, the Standards Committee agreed that an annual report should be made on offers of Gifts and Hospitality which have been made to Members of the Council and when the Governance Committee assumed responsibility for these matters, this annual report was brought to this Committee.

2. Offers Made

2.1 The offers of gifts and hospitality to members of Chelmsford Council for the period January to December 2019 can be found at **Appendix 1**. In summary, there were three declaration by members.

2.2 A summary of the offer of gifts and hospitality to Officers of the Council can be found at **Appendix 2**.

List of Appendices

Appendix 1 – Offers of Gifts and Hospitality (Councillors) – January to December 2019

Appendix 2 – Offers of Gifts and Hospitality (Officers) – January to December 2019

Background Papers

Nil

APPENDIX 1**Offers of Gifts and Hospitality (Councillors) – January to December 2019**

No.	Date	Councillor	Gift/Hospitality	Value	Organization	Whether Accepted
Cllr 58	26/4/19	Sullivan	Ticket to Mayor's Charity Ball	£60	Countryside Properties	Accepted
Cllr 59	13/6/19	Robinson	Dinner	£85	7IM	Accepted
Cllr 60	2/7/19	Deakin	Tickets to RHS Hampton Court Festival	£100	Crest Nicholson	Accepted

Officer Gifts and Hospitality from January to December 2019

Report Number	Date of report	Directorate	Description of gift/hospitality	Estimated Value	Giver/Offerer	Accepted/Refused
OFF 196	4/2/19	Public Places	Bottle of gin	£15	Johnsons of Whixley	Accepted and donate to Mayor's Charities
OFF 197	12/4/19	Sustainable	2 boxes of Fortnum and Mason Easter eggs	£90 total	Mr Lee Stephenson	Accepted. One kept by staff and one donate to Mayor's Charities
OFF 198	10/5/19	Sustainable	Invitation to RHS Hampton Court Festival	Over £50	Crest Nicholson	Accepted
OFF 199	29/4/19	Sustainable	Invitation to RHS Hampton Court Festival	£63	Crest Nicholson	Refused
OFF 200	15/7/19	Connected	Bottle of Wine	£7	Father of Rebecca Enticknap	Accepted
OFF 201	5/8/19	Finance	Bunch of flowers and card	£5	Cara Stone	Accepted
OFF 202	8/8/19	Chief Executive	2 Tickets to T20 Cricket Match	£100	Essex and Suffolk Water	Accepted
OFF 203	2/7/19	Sustainable	Ticket and Hospitality to RHS Hampton Court	£80	Crest Nicholson	Accepted
OFF 204	27.11.19	Finance	Dinner for users of Ideagen Software	£50	Ideagen PLC	Accepted
OFF 205	27.11.19	Finance	Dinner for users of Ideagen Software	£50	Ideagen PLC	Accepted
OFF 206	12.12.19	Public Places	6 bottles of wine	£42-60	Balm and Davies Ltd	Accepted and donate to Mayor's Charities

Officer Gifts and Hospitality from January to December 2019

OFF 207	18.12.19	Connected	Christmas food boxes and gifts	£50-60	Alto Digital	Accepted and donate to Mayor's Charities
OFF 208	17.12.19	Public Places	2 bottles of wine	£40	The Window Company	Accepted and donate to Mayor's Charities
OFF 209	23.12.19	Sustainable	Bottle of wine	£6	Evolution Architects	Accepted and donate to Mayor's Charities
OFF 210	23.12.19	Sustainable	Bottle of wine	£6	Evolution Architects	Accepted and donate to Mayor's Charities

GOVERNANCE COMMITTEE

11 March 2020

AGENDA ITEM 15

Subject	WORK PROGRAMME
Report by	MONITORING OFFICER

Enquiries contact: Monitoring Officer - Lorraine Browne, 01245 606560,
Lorraine.browne@chelmsford.gov.uk

Purpose

The purpose of this report is to receive members' comments on the Committee's future work programme.

Recommendation(s)

1. Members are invited to comment on the Committee's work programme, attached as **Appendix 1** to this report, and make any necessary amendments to it.

Corporate Implications

Legal:	None
Financial:	None
Potential impact on climate change and the environment:	None
Contribution toward achieving a net zero carbon position by 2030:	None
Personnel:	None
Risk Management:	None
Equalities and Diversity:	None
Health and Safety:	None
IT:	None
Other:	None

Consultees	Legal and Democratic Services Manager
-------------------	---------------------------------------

Policies and Strategies

The report takes into account the following policies and strategies of the Council:

Not applicable.

1. Background

1.1 The work programme (the Programme) is reviewed by the Committee at each meeting. The current version is attached at **Appendix 1** to this report and includes the proposed work for future meetings, based on the Programme content for recent years.

2. Conclusion

2.1 Members are invited to comment on the Committee's work programme and make any necessary amendments to it.

List of Appendices

Appendix 1 – Governance Committee Work Programme

Background Papers

Nil

11 March 2020

- Constitution Updates
- Annual Report on Whistleblowing
- Ombudsman Complaints
- Member Maternity/Paternity Policy
- Gifts and Hospitality Report
- Monitoring Officer Report
- Model Code of Conduct Update
- RIPA Annual Review
- Review of Assessment Criteria and complaints procedure
- Work Programme

17 June 2020 (Joint Meeting with the Audit Committee)

- Review of Local Code of Corporate Governance and Annual Governance Statement 2019/20

17 June 2020

- Monitoring Officer Report
- Pre hearing procedure
- Declarations of Interests
- Review of Code of Conduct – initial scoping report and approach to review
- Annual Report of the Committee
- Work Programme

14 October 2020

- Monitoring Officer Report
- Annual Report on Whistleblowing
- Ombudsman Complaints
- Work Programme

20 January 2021

- Monitoring officer Report
- Declarations of Interests
- Gifts and Hospitality Report
- Work Programme

10 March 2021

- Monitoring Officer Report
- RIPA Annual Review
- Annual Constitution Review
- Work Programme

Ad hoc reports

- Politically exempt officer posts
Training