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CABINET AGENDA

Date: **Wednesday 16th January 2019**

Time: **7.00pm NB Time**

Venue: **Council Chamber**

This meeting will be webcast live on the internet.

Membership:

Councillor Smith	Chairman - Leader of the Council
Councillor Stanley	Finance, Policy and Resources
Councillor Mrs Egan	Housing and Council Homes
Councillor Howard MBE	Streets, Waste, Floods and Water Management
Councillor Isaacs	Neighbourhoods & Safer Communities
Councillor MacLean	Health & Wellbeing
Councillor Mumford	Regeneration & Business Liaison
Councillor Sheldon	Commercial Contracts and Commercial Opportunity
Councillor Varker	Environment & Leisure

Cabinet Enquiries:	Ann Horgan ext. 2413
Reference:	6/2018/2019
Publication Date:	Tuesday 8th January 2019

AGENDA
PART I
(Business to be taken in public)

1. Apologies

2. Members' Interests

3. Minutes

To approve the Minutes of the meeting held on 21st November 2018.

4. Forward Plan

To review the Forward Plan.

5. Health and Community Safety

5(a) Civil Penalty as an Alternative to Prosecution under the Housing Act 2004 introduced under Part 2 Housing and Planning Act 2016

(Report of the Cabinet Member for Health and Wellbeing)

5(b) Police Fire and Crime Panel – Review of Arrangements

(Report of the Cabinet Member for Neighbourhoods and Safer Communities)

6. Environment

6(a) Review of Car Parking Charges

(Report of the Cabinet Member for Environment and Leisure)

7. Housing and Regeneration

7(a) Development of Two 2 Bedroomed Homes in Windsor Gardens

(Report of the Cabinet Members for Housing and Council Homes and Finance, Policy & Resources)

8. A Commercial and Democratically Accountable Council

There are no matters.

9. Matters to be referred from /to Policy & Scrutiny Committees

There are no matters.

10. Matters to be referred from /to the Standing Committees

There are no matters.

PART II
(Business to be taken in private)
(Item to be considered with the press and public excluded from the meeting)

7(a) Development of Two 2 Bedroomed Homes in Windsor Gardens

(Report of the Cabinet Members for Housing and Council Homes and Finance, Policy & Resources) – Appendix A

**INFORMAL
CABINET SESSION**

All Councillors are welcome to take part in this informal question time session with Cabinet at the end of the meeting. The session will be time limited and will conclude not later than 9pm.



CABINET

21ST NOVEMBER 2018

PRESENT:

Councillor Smith Chairman	Leader of the Council
Councillor Stanley	Finance, Policy and Resources
Councillor Mrs Egan	Housing and Council Homes
Councillor Howard MBE	Streets, Waste, Floods and Water Management
Councillor Isaacs	Neighbourhoods & Safer Communities
Councillor MacLean	Health & Wellbeing
Councillor Mumford	Regeneration & Business Liaison
Councillor Sheldon	Commercial Contracts and Commercial Opportunities
Councillor Varker	Environment & Leisure

ALSO PRESENT:

Councillors: Acott, Blackwell, Campagna, Cole, Greig, Hart, Mrs Haunts, Johnson, May, Palmer, Mrs Sach, Skipp, Taylor and Walter.

43. MEMBERS' INTERESTS:

Councillor Sheldon declared an interest as an Essex County Councillor and Deputy Essex County Council Cabinet member in relevant matters before the Cabinet.

Councillors Campagna, May and Palmer declared interests regarding Minute 49 Canvey Island Seafront Update by reason of their connection with Canvey Baywatch.

44. MINUTES:

The Minutes of the Cabinet meeting held on 16th October 2018 were approved and signed by the Chairman as a correct record.

45. FORWARD PLAN:

Prior to consideration of this item the Cabinet Member for Environment and Leisure outlined a proposal to increase the number of free parking days in town centre car parks during the Christmas period which was supported by the Cabinet.

To comply with regulations under the Localism Act 2011, the Leader presented a revised Forward Plan to the meeting which outlined key

decisions likely to be taken within the next quarter 2018. The Plan was reviewed each month.

The plan would need to be adjusted to take account of the additional work to be undertaken by the Environment Policy and Scrutiny Committee before a report back was made on the petition regarding the use of private companies for issue of fixed penalties for litter and dog fouling.

Councillor Howard took the opportunity to brief colleagues on various flood relief and prevention actions.

Resolved – To note and approve the Forward Plan.

46. MOTION REFERRED FROM COUNCIL

At the Ordinary Council meeting held on 26.9.2018 a procedure Motion was put and it was agreed to refer to Cabinet the following –

“With the ever present anti-social behaviour throughout the Borough, due to the apparent lack of sufficient police resources, this Council must act on behalf of our residents affected by this poor behaviour.

To explore the use of private security in areas to be identified by residents, and with the assistance of Essex Police, discourage any such anti-social behaviour”.

Cabinet considered a report setting out information regarding the Council’s use of private security to protect council land and assets. A range of measures not just the use of private security were used to control anti-social behaviour.

The Motion referred to Cabinet did not appear to limit the areas to Council owned land and assets. It was not the Council’s responsibility to employ private security to patrol the Borough’s streets, parks and open spaces to deter anti-social behaviour. It was also the responsibility of individual owners and occupiers of private land and buildings to take responsibility to protect and secure their own land and assets.

Any action to be taken needed to be proportionate to the problem. Castle Point along with many other Councils across the country was seeing an increase in problem of anti-social behaviour particularly in their parks and open spaces. Such behaviour would not be addressed by enhanced security patrols but rather by improved security measures.

Resolved:

To note the range of actions used by the Council including enhanced partnership working with the Police to address anti- social behaviour in the Borough.

47. THE ESSEX HMO AMENITY STANDARDS

The Cabinet considered a report seeking approval to adopt the new Essex guide to the minimum standard for amenities and space permitted in a house of multiple occupation "The Essex HMO Amenity Standards."

Resolved:

To approve the adoption of the attached "Essex HMO Amenity Standards" with immediate effect.

48. RESPONSE TO PUBLIC CONSULTATION REGARDING POSSIBLE BANNING OF DOGS FROM CANVEY SEAFRONT

The Cabinet considered a report on the response to public consultation exercise on the possible banning of dogs from Canvey seafront and how best to proceed in light of the public response.

Resolved:

That investigation be undertaken and a report be made to Cabinet on a dog control scheme to operate between April and September requiring dogs to be kept on a lead on beaches on Canvey.

49 CANVEY ISLAND SEAFRONT UPATE

The Cabinet considered a report advising of the high level implementation plan which had been drawn up in order to deliver the ambitious improvements identified in the Canvey Island seafront masterplan. The report also informed of the response to the Stage 1 bid for Coastal Communities Funding. The Council had been invited to progress to Stage 2 of the bid on which a submission was required by 21.1.2019. Work was underway on the submission.

Resolved:

To note the report and progress underway.

50. CHARGING POLICY FOR HOMELESS TEMPORARY ACCOMMODATION

The Cabinet considered a report seeking authority to implement a change in the Council's policy for recovering the cost of short-term accommodation from homeless applicants.

The proposed new charging policy objective was to enable applicants to leave temporary accommodation in no worse a position than when they sought the Council's help, whilst ensuring that they make a fair and affordable contribution towards the costs incurred.

It was therefore proposed that an upper limit be placed on the weekly amount the applicant was requested to pay towards their accommodation as set out below:

- The **£20.58** due for services, plus
- An amount equal to the Local Housing Allowance amount, typically **£115.35** (this amount is then reduced by any HB payable), plus
- The amount assessed by the Housing Options Team as being affordable for the applicant to pay.

Cabinet noted that implementing a system of application contribution caps would not significantly impact on the overall cost to the Council but would benefit applicants as the Council would seek to recover realistically recoverable amounts and avoid the requirement to raise large invoices that were unlikely to be recoverable.

Resolved:

To agree to implement a cap on the amount which the Council seeks to recover from homeless applicants for temporary accommodation as set out above and within the report at para 5.2 of the report, ensuring that the amount charged to each applicant is affordable under homelessness legislation.

51. HIGHWAYS ENGLAND CONSULTATION LOWER THAMES CROSSING

The Cabinet considered a report advising of a current consultation exercise being conducted by Highways England regarding proposals for a Lower Thames Crossing. The report also sought the Cabinet's agreement to a suggested response to this consultation covering the following matters included at Section 5 of the report.

- Cabinet had previously agreed to welcome the provision of additional capacity to cross the Thames in south Essex. The existing crossing at Dartford was operating beyond design capacity and the performance of the crossing and network when coping with unforeseen incidents was significantly impaired. This in turn has significant consequences for residents and business in south Essex in terms of accessibility in and around the London and the south east.
- Again, however, the provision of additional crossing capacity in South Essex should also be concurrent with the provision of additional capacity further upstream in London. For many years proposals have been advanced, but never progressed, for additional river crossing capacity downstream of the Blackwell Tunnels; for example proposals were advanced for a bridge at Gallions Reach connecting the A406 North Circular Road to the A2. A crossing in this general location could provide capacity to serve

journeys either originating or ending in east London, thereby relieving the existing crossing in Dartford of a proportion of its current traffic.

- Turning now to the details of the current consultation, the limited number of additional junctions on the Lower Thames Crossing was a deliberate approach to avoid any localised congestion around such access points. However further additional junctions may improve accessibility in South Essex, and create potential development opportunities; provided that if new junctions were constructed these were simultaneous with a significant improvement to the capacity of the A13 and other local routes; this point should be re-examined.
- The provision of additional running lanes on the existing A13 from the A13/A128 Orsett Cock interchange to the A13/A1014 Manorway interchange has already commenced, but consideration should also be given to similar capacity improvements to the A13 east of the A13/A1014 Manorway interchange to provide additional capacity, particularly since traffic modelling appears to show that journey times eastbound on the A13 may increase on the completion of the Lower Thames Crossing.
- The Council has for some time supported the concept of an additional access to and from Canvey Island to the A13 using the A13/A1014 Manorway interchange, the A1014 and a fixed link across Holehaven Creek to connect to Northwick Road, and then to the A130 Roscommon Way. Because the current proposals rely on a greater use of the A13/A1014 Manorway interchange for journeys which currently use the A13/A128 Orsett Cock interchange, there could well be significant additional pressure on this interchange which may undermine this Council's aspirations. It is suggested that the proposals consider and take into account the potential for the A13/A1014 Manorway interchange for journeys to and Canvey Island at some future date. Cabinet also was of the view that consideration should be given to the impact on the A127 Fairglen Interchange.
- Finally that the Association of South Essex Local Authorities be advised of the Council's views on the Lower Thames Crossing proposals as set out above, and to support a joint response to the consultation from South Essex.

Resolved:

To note the current consultation from Highways England regarding proposals for a Lower Thames Crossing and agree to submit a response as set out above and in Section 5 of this report incorporating comments made at the meeting regarding consideration to be given to the Fairglen Interchange.

52. JOINT STRATEGIC PLAN STATEMENT OF COMMUNITY INVOLVEMENT

The Cabinet considered a report informing of the need to approve a Statement of Community Involvement for the Joint Strategic Plan for South Essex.

Resolved:

1. That the Cabinet notes and approves the attached draft Statement of Community Involvement, prepared to cover the Joint Strategic Plan for South Essex;
2. To agree that this should be the subject of consultation with the local community for a minimum period of 6 weeks, carried out in conjunction with other South Essex authorities;
3. Following consultation and once agreed by all South Essex authorities, it is appended as Part II to the Council's existing Statement of Community Involvement 2014.

53. FINANCIAL UPDATE

The Cabinet considered a report providing the latest medium term financial forecast in respect of the General Fund and updating Cabinet on developments of a financial nature, which might impact on the Council's financial plans in respect of either the General Fund, Housing Revenue Account (HRA) or Capital Programme. Cabinet was also asked to approve an additional sum to meet the capital cost of vehicle replacements as a consequence of a tender process.

Resolved:

To note the report and approve an increase to the General Fund Capital programme for vehicle replacements of £112k (para 5.4 referred).

54. LOCAL COUNCIL TAX SUPPORT (LCTS) SCHEME FOR 2019/20

The Cabinet considered a report updating the Cabinet in respect of the Proposed Local Council Tax Support scheme for 2019/20. No change was proposed to the current scheme.

Resolved:

1. To note the information regarding consultation and review of the scheme, and the Universal Credit Impacts on LCTS at Appendix A.
2. To note the Stage 2 Equality Impact Assessment at Appendix B and the Impact of the Proposed 2019/20 LCTS Scheme at Appendix C.
3. To recommend to Council that there are no changes to the Local Council Tax Support Scheme for 2019/20.

55. CORPORATE PERFORMANCE SCORECARD QUARTER 2 2018/19

The Cabinet considered the cumulative performance figures for the Corporate Performance Scorecard for quarter 2, 1st July 2018 to 30th September 2018.

Resolved:

To note the report and continue to monitor performance.

56. MATTERS TO BE REFERRED FROM/TO POLICY SCRUTINY COMMITTEES:

There were no matters.

57. MATTERS TO BE REFERRED FROM /TO THE STATUTORY COMMITTEES:

There were no matters.

Chairman



Castle Point Borough Council

Forward Plan

DECEMBER 2018/JANUARY 2019

CASTLE POINT BOROUGH COUNCIL

FORWARD PLAN

DECEMBER 2018/JANUARY 2019

This document gives details of the key decisions that are likely to be taken. A key decision is defined as a decision which is likely:-

- (a) Subject of course to compliance with the financial regulations, to result in the local authority incurring expenditure which is, or the savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates subject to a threshold of £100,000; or
- (b) To be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the area of the local authority.

The Forward Plan is a working document which is updated continually.

Date	<u>Item</u>	Council Priority	Decision by Council/ Cabinet	Lead Member(s)	Lead Officer(s)
January 2019	<u>Civil Penalties as an Alternative to Prosecution under the Housing Act 2004</u>	Health and Community Safety	Cabinet	Health and Wellbeing	Head of Environment
January 2019	<u>Police Crime Panel Review</u>	Health and Community Safety	Cabinet	Neighbourhoods & Safer Communities	Strategic Director Corporate Services Head of Licensing Safer Communities
January 2019	<u>Review of Car Parking Charges</u>	A Commercially and Democratically Accountable Council Environment	Cabinet	Environment Finance, Policy & Resources	Head of Environment
January 2019	<u>Windsor Gardens – Development of Two 2 bedroomed homes</u>	A Commercially and Democratically Accountable Council Housing and Regeneration	Cabinet	Housing and Council Homes / Finance, Policy & Resources	Head of Housing and Communities
February 2019	<u>Budget and Policy Framework</u> To make recommendations to Council on the Council tax and budget setting.	All	Cabinet/ Council	Finance, Policy & Resources	Strategic Director (Resources)

February 2019	<u>Treasury Management Report – Included within the budget setting.</u>	A Commercially and Democratically Accountable Council	Cabinet	Finance, Policy & Resources	Strategic Director (Resources)
February 2019	<u>Housing Revenue Account Rent Levels 2019/2020 Housing Capital Programme etc</u>	A Commercially and Democratically Accountable Council Housing and Regeneration	Cabinet	Housing and Council Homes / Finance, Policy & Resources	Strategic Director (Resources) Head of Housing and Communities
February/ March 2019	<u>Crown Public House</u>	A Commercially and Democratically Accountable Council Housing and Regeneration	Cabinet	Regeneration and Business Liaison Finance, Policy & Resources	Head of Place and Policy
February 2019	<u>Planning Policy Update - RAMS</u>	Council Housing and Regeneration	Cabinet	Regeneration and Business Liaison	Head of Place and Policy
March 2019	<u>Reference from Environment Policy & Scrutiny Committee re petition use of private Security companies to Enforce Litter,Dog Fouling etc Fixed Penalties</u>	Environment	Cabinet	Environment & Leisure Streets Waste Floods and Water Management	Head of Environment

CABINET

16th January 2018

Subject: Civil Penalty as an Alternative to Prosecution under the Housing Act 2004 introduced under Part 2 Housing and Planning Act 2016

Cabinet Member: Councillor MacLean – Health and Well Being

1. Purpose of Report

This report seeks the approval of Cabinet:

- (1) To utilise civil penalty powers as an alternative to prosecution under the Housing Act 2004 (“The Act”),**
- (2) Of a new policy which sets out guidance as to how Castle Point Borough Council will determine the level of financial penalty in individual cases, once the decision to impose a civil penalty has been made, and**
- (3) To delegate authority to the Head of Environment to enforce the provisions of the Act.**

2. Links to Council’s Priorities and Objectives

The new policy links directly to the Council’s Health and Community Safety Priority.

3. Recommendations

It is recommended that Cabinet:

- a) Approves the use of civil penalties as an alternative to prosecution under the Housing Act 2004, where it is appropriate to do so;**
 - b) Approves the Civil Penalty Determination Policy (Appendix 1); and**
 - c) Grants delegated authority to the Head of Environment to enforce the provisions of the Act.**
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4. Background

- 4.1 The private rented sector is an important part of our housing market, housing 4.5 million households in England. Government surveys have indicated that the quality of private rented housing has improved over the past decade, with 82% of private renters satisfied with their accommodation and staying in their homes for an average of 4 years.
- 4.2 Castle Point Borough Council wants to support good landlords who provide decent, well maintained homes and target the small number of rogue or criminal landlords that knowingly rent out unsafe and substandard accommodation.
- 4.3 The Housing and Planning Act 2016 introduced a range of measures to crack down on rogue landlords including:
- Civil penalties of up to £30,000 as an alternative to prosecution for certain specified offences;
 - Extension of rent repayment orders to cover illegal eviction, breach of banning orders and certain other specified offences;
 - Banning orders for the most serious offenders; and
 - A database of rogue landlords and property agents whom a banning order has been made, or who have received two or more financial penalties.

5 Civil Penalties and offences covered

- 5.1 A civil penalty is a financial penalty which can be imposed by a housing authority on an individual or organisation as an alternative to prosecution for certain offences under the Housing Act 2004 and for a breach of a banning order under the Housing and Planning Act 2016.
- 5.2 Civil penalties are designed to act as punishment to the offender, deter others and remove any financial benefit the offender may have obtained as a result of committing the offence.
- 5.3 The Act gives local housing authorities alternative enforcement options to issue a penalty notice for non-compliance rather than taking a prosecution in court, which can be time consuming and expensive. The provisions do not replace the option for prosecution, but it is expected that prosecution would be reserved primarily for serious cases or for repeat offenders.
- 5.4 The powers conferred by the Housing and Planning Act 2016 allow local authorities to issue a notice of the intention to impose a civil penalty up to a maximum of £30,000 per offence as an alternative to prosecuting a number of offences under the Housing Act 2004.
- 5.5 If these proposals are agreed, Castle Point Borough Council will be able to impose a civil penalty as an alternative to prosecution for the following offences under the Housing Act 2004:
- Failure to comply with an improvement notice (Section 30)
 - Offences in relation to Houses in Multiple Occupation (HMOs) (Section 72)

- Offences in relation to licensing of houses under part 3 of the Act (Section 95)
- Offences of contravention of an overcrowding notice (Section 139)
- Failure to comply with management regulations in respect of HMOs (Section 234) for example those involving household waste control.
- Breaching a banning order (Housing and Planning Act 2016 Section 23)

6 Other relevant powers

- 6.1 A **banning order** can be sought in the First-Tier Property Tribunal (FTPT) if a person has been convicted of a banning order offence. A banning order once imposed will prevent any person subject to a ban from letting housing, engaging in letting agency or management work and from holding a property licence in England.
- 6.2 The Housing Act 2004 introduced **Rent Repayment Orders (RRO)** to recover Housing Benefit / Universal Credit that was paid to landlords convicted of running unlicensed properties. The Housing and Planning Act 2016 introduces an obligation upon the local authority to consider following conviction for certain offences whether to apply for an RRO. An application for a RRO may be made where a conviction has been obtained in respect of the following offences
- Using violence for securing entry
 - Eviction or harassment of occupiers
 - Failure to comply with an improvement notice
 - Failure to comply with a prohibition notice
 - Failure to license or be licensed in respect of an HMO.
 - Breach of a Banning Order
- 6.3 The Act provides for a **Rogue Landlords Database**, to enable local authorities to record information about and target enforcement action against any landlord or property agent who has; received a banning order; been convicted of a banning order offence; received 2 or more civil penalties over a 12 month period.

7 Requirement for a charging policy

- 7.1 Under the legislation any decision to impose civil penalties must be in accordance with Schedule 13A of the Housing Act 2004 and any other guidance issued by the Secretary of State. The government's Department for Housing, Communities and Local Government (DHCLG) has published statutory guidance which local housing authorities must have regard. The guidance recommends certain factors a local housing authority should take into account when deciding on the level of financial penalty and further recommends that local authorities develop and document their own policy on determining the appropriate level of financial penalty in a particular case.

- 7.2 A separate local charging policy has been prepared and is attached as Appendix 1.

8 Private Housing Enforcement Policy

- 8.1 The Council's Private Housing Enforcement Policy will need to be updated to take into account the ability to impose civil penalties on offenders. The policy was approved by Cabinet in April 2016. The full range of enforcement action will remain available to officers when considering the most appropriate action in any given circumstance, a staged approach to enforcement will continue to be taken by the Council.

9. Further Commentary

- 9.1 The use of Civil Penalties is unlikely to reduce the amount of work required for investigations by enforcement officers. Civil Penalties cannot be issued unless the evidence has met the criminal standard of proof 'beyond reasonable doubt,' the same level as used for prosecution cases. In considering the decision to prosecute or not, the Council must also consider if there is sufficient evidence upon which a properly directed tribunal of fact could convict and whether the prosecution is in the public interest.
- 9.2 Those persons upon whom a Notice of Civil Penalties is served, can appeal to the First Tier Property Tribunal (FTPT) both in respect of the decision to serve any fixed penalty and in respect of the amount imposed. It is therefore important that the Council makes decisions in accordance with its enforcement policy, impose financial penalties using the criteria laid down in its charging policy and have regard to any government guidance.
- 9.3 Overall, it is felt that Civil Penalties will offer the Council a very useful additional enforcement option, with the fines imposed acting not only as a punishment, but also as a deterrent and encouragement for landlords to provide good quality accommodation. They should also provide some leverage for Council officers who find issues with properties and wish to rectify them as soon as possible for the benefit of the tenant.
- 9.4 Delegation of powers contained in the Housing and Planning Act 2016 to the Head of Environment will enable Council Officers to make use of the Housing related provisions contained in the Act, including the application for rent repayment orders (RROs) and provisions to make use of the government Rogue Landlords' Database.

10 Corporate Implications

(a) Financial implications

- 10.1 The Government has stated that income from Civil Penalties can be retained by the Local Authority and must be used to further its statutory functions in relation to the private rented housing sector. It is not envisaged that significant income will be generated from penalties, but any monies gained would be used towards the Council's enforcement role and other functions with regard to the private rented housing sector.

(b) Legal Implications

- 10.2 Delegated powers to enforce the Housing and Planning Act 2016 is required to be provided to the Head of Environment to enable appointment of officers to utilise the powers contained in the legislation.
- 10.3 A Financial Penalty Policy is not a legal requirement, but is recommended by statutory guidance that the Council is required to take account of. As such, it is considered to be a de facto requirement if Cabinet were to approve the use of Civil Penalties.

(c) Human Resources and Equality Implications

- 10.4 There are no human resources or equality implications associated with this report.

11 Timescale for implementation and Risk Factors

- 11.1 It is recommended that the appropriate delegation and charging policy should take immediate effect.

Background Papers

Civil Penalties under the Housing and Planning Act 2016 – Guidance for Local Housing Authorities (April 2018) – Ministry of Housing, Communities and Local Government.

Report Author: Simon Llewellyn, Environmental Health Operational Manager



Castle Point Borough Council

Housing and Planning Act 2016

Civil Penalty Determination Policy

PART 1

1) Introduction

- 1.1) Schedule 9 of the Housing and Planning Act 2016 amended the Housing Act 2004 and introduced new powers for Councils to impose financial penalties as an alternative to prosecution for certain offences under the 2004 Act.
- 1.2) Civil Penalties are now an alternative to prosecution when a landlord fails to comply with the following offences / breaches under the 2004 Act.
 - Section 30 – failure to Comply with an improvement notice
 - Section 72 – offences relating to the mandatory licensing of Houses of Multiple Occupation (HMO's)
 - Section 95 – offences in relation to the licensing of HMO's under part 3 of the Act
 - Section 139 – failure to comply with overcrowding notice
 - Section 234 – breach of management regulations in respect of HMO's (A civil penalty can be imposed for each separate breach of the regulations)
 - Section 21 (Housing and Planning Act 2016) – breach of a banning order
- 1.3) An amendment to the Housing Act 2004 (Schedule 13A) prescribes the procedures that a local housing authority must follow before imposing a financial penalty, the appeal process and the procedure for the recovery of the penalty.
- 1.4) The 'Civil Penalties under the Housing and Planning Act 2016 – Guidance for Local Authorities' was produced for this purpose as statutory guidance that the authority must have regard to. The guidance recommends certain factors a local authority should take into account when deciding on the level of civil financial penalty and recommends that Local Authorities develop and document their own policy on determining the appropriate level of financial penalty in a particular case.
- 1.5) This document was produced to act as the local policy of Castle Point Borough Council for the setting of civil penalties, where this is considered to be the most appropriate enforcement option having regard to the CPBC Private Housing Enforcement Policy.

2) **Burden of Proof for a civil penalty and consideration of enforcement options**

- 2.1) For a criminal prosecution and for a civil penalty to be imposed, the Council must satisfy itself that it can show beyond reasonable doubt that the landlord has committed the offence and that if heard in a magistrates' court, there would be a reasonable prospect of conviction.
- 2.2) The Council will have consideration to the "Crown Prosecution Service Code for Crown Prosecutors" published by the Director of Public Prosecutions when considering the evidence:
 - Sufficiency of evidence – Evidentiary Stage of the Full Code Test
 - Public interest – Public Interest Stage of the Full Code Test
- 2.3) The Council will also have regard to its own Enforcement Policy when deciding on whether to impose a civil penalty or whether there is a more appropriate enforcement option, given the circumstances of the case (i.e. a prosecution.) The policy states that decisions and action taken shall be appropriate, fair, proportionate, consistent and transparent.

3) **Factors taken into account when setting appropriate level of fine**

- 3.1) The Council shall have regard to the following factors to ensure the correct level of fine is set correctly:

i) Severity of offence

The more serious the offence, the higher the penalty shall be.

ii) The harm caused to the tenant or the potential harm to the tenant

The greater the harm or potential for harm (class of harm taken from HHSRS guidance as set out under part 1 of the Housing Act 2004) the higher the amount should be when imposing a civil penalty.

iii) Culpability and track record of the offender

A landlord's previous history of compliance will be taken into account. Ignorance of the law is not a defense to protecting their tenant's health, safety and welfare. A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/ or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.

iv) Punishment of the offender (economic impact on the offender)

A Civil Penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect the severity of the offence, and whether there is a pattern of previous offending. It is important that it is set at a high enough level to ensure that it has real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities. Each case will be considered on its merits and the action to be taken will be decided accordingly.

v) Defer the offender from repeating and committing further offences

The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.

vi) Deterrence of others from committing similar offences

An important part of deterrence is the realization that (a) The local housing authority is committed to improve housing standards in the private rented sector and proactive in levying civil penalties where the need to do so exists and (b) that the civil penalty will be set at a high enough level to both punish the offender and deter repeat offending. A consistent approach

in the issuing of civil penalties is necessary to deter the offender in question or others from committing the same offences.

vii) *Financial gain – remove any financial benefit the offender may have obtained as a result of committing the offence*

The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and well managed. When serving a civil penalty, any benefit the offender has made as a result of their action will be taken into account. The level of civil penalty will be higher the more financial gain has been made by the landlord to punish and deter repeat offending.

4) Changes / review of policy document

- 4.1) The policy shall be reviewed from time to time, for reasons which may include, but are not restricted to, changes in legislation and to ensure the effective operational working of the policy. Minor amendments to the policy document such as changes in offence categorisation scores, descriptions and offence category score ranges, may be made by the Environmental Health Operational Manager, in consultation with the Head of Environment. Major changes to the policy shall be subject to Cabinet approval.

PART 2

5) Determination of a Civil Penalty

- 5.1) The Department of Housing, Communities and Local Government published statutory guidance on Civil Penalties under the Housing and Planning Act 2016. This guidance has been followed in establishing this local policy document.
- 5.2) Castle Point Borough Council has adopted a scoring system which takes into account the factors that the statutory guidance allows to be used when making a decision as to the appropriate civil penalty.
- 5.3) The Civil Penalty should be fair and proportionate, but in all instances should act as a deterrent and remove any gain as a result of the offence.

STEP 1 - Determining the offence category, fine starting point and range of penalty.

- The Council will determine the offence category using Severity, Culpability, Harm and the track record of the landlord. Where an offence does not fall squarely into a category, individual factors may require a degree of adjustment to make an overall assessment and potentially result in a score that falls between two categories.
- The examples listed in each box of the matrix are for *guidance purposes only* and will be considered alongside the context and circumstances of each individual case.
- Table 1 shall be used to calculate a score (Severity + Culpability + Harm or Potential harm + Track Record = score)
- Table 2 shall then be used to indicate a final offence category (A, B, C or D,) based on the score, a fine range and starting point fine. The starting point fine amount shall then be adjusted, if necessary, during steps 2-8.

Table 1 – Scoring of the four criteria.

CRITERIA	Offence category A	Offence category B	Offence category C	Offence category D
Severity of offence.	One cat 1 hazard or breach Score 2	Two cat one hazards or breaches (where one or less is band A) Score 4	Two Cat one hazards or breaches where both are band A or Three+ cat 1 hazards (of which one or less is band A) or breaches Score 6	Three+ cat 1 hazards (of which two or more band A) or breaches Score 8
Culpability	Offence committed with little fault, i.e. significant efforts were made to address the risk, but were inadequate on this occasion or no warnings/circumstance indicating a risk Score 2	Offence committed through act or omission which a person exercising reasonable care would not commit Score 4	Actual foresight or willful blindness to risk of offending, but risk nevertheless taken. Score 8	Intentional breach or, flagrant disregard of the law Score 16
Harm or potential harm	Moderate (i.e. occasional slight pneumonia, regular serious coughs and clod, broken finger, mild concussion.) Score 2	Serious (i.e. fracture, concussion, loss of finger, gastroenteritis, serious puncture wounds) Score 4	Severe (i.e. serious burns, serious fractures, anaphylactic shock, cardio respiratory disease.) Score 8	Extreme (i.e. death) Score 16
Track record of landlord / agent	No history or good record of compliance Score 0	Informal action taken and complied with on past occasion. Score 2	Enforcement action, previously taken, for moderate or serious risks Score 4	Enforcement action previously taken for severe or extreme risks Score 8

Table 2 – Deciding on an offence category based on total score

Offence category	A	B	C	D
Score	0-12	13-24	25-36	37-48
Fine range	£1001-£2500	£2501-£7000	£7001-£17000	£17001-£30000
Starting point	£1750	£4750	£12000	£23500

- Above fine range set in accordance with Criminal Justice Act 1982 – standard scale points 3, 4, 5 & 6. Scale points 1&2 (<£1000) are not used due to the need for fines to act as a deterrent and/or to any economic advantage that a legal contravention may have provided to the landlord.

Step 2 Adjustments to the Initial Determination – Aggravating and mitigating factors

- In order to determine the final penalty the Council will consider both aggravating and mitigating factors in each case. These will adjust the initial level of the penalty based on these factors.
- Below is a list of both aggravating and mitigation factors which will be considered as part of the determination. The list is not exhaustive and other factors may be considered depending on the circumstances of each case.

Aggravating factors could include:

- Previous convictions having regard to the offence to which applies and time elapsed since the offence
- Motivated by financial gain
- Obstruction of the investigation
- Deliberate concealment of the activity/evidence
- Number of items of non-compliance – greater the number the greater the potential aggravating factor
- Record of letting substandard accommodation
- Record of poor management/ inadequate management provision
- Lack of a tenancy agreement/rent paid in cash

Mitigating factors could include:

- Cooperation with the investigation e.g. turns up for the PACE interview
- Voluntary steps taken to address issues e.g. submits a licence application
- Acceptance of responsibility e.g. accepts guilt for the offence(s)
- Willingness to undertake training
- Willingness to join recognised landlord accreditation scheme
- Health reasons preventing reasonable compliance – mental health, unforeseen health issues, emergency health concerns
- No previous convictions
- Vulnerable individual(s) where there vulnerability is linked to the commission of the offence
- Good character and/or exemplary conduct

STEP THREE - Review any financial element of the penalty

- The Council shall check whether the proposed level of financial penalty is proportionate to the overall means of the offender. The Council may increase or reduce the proposed fine reached at step two.

Obtaining financial information

- The statutory guidance advised that local authorities should use their existing powers to, as far as possible, make an assessment of a landlords assets and any income (not just rental income) they receive when determining an appropriate penalty. Assets can be borrowed against or sold.
- In setting a financial penalty, the Council may conclude that the offender is able to pay any financial penalty imposed, unless the Council has obtained or the offender has supplied any financial information to the contrary. An offender will be expected to disclose such data relevant to his financial position to enable the Council to assess what an offender can reasonably afford to pay.
- Where the Council is not satisfied that it has been given sufficient reliable information, the Council will be entitled to draw reasonable inferences as to the offenders means from evidence it has received and from all the circumstances of the case.

General principles to follow in setting a penalty

- The Council should finalize the appropriate level of penalty so that it reflects the seriousness of the offence and the Council must take into account the financial circumstances of the offender.
- The level of financial penalty should reflect the extent to which the offender fell below the required standard. **The financial penalty should meet, in a fair and proportionate way, the objectives of punishment, deterrence and the removal of gain derived through the commission of the offence;** it should not be cheaper to offend than to take the appropriate precautions.
- The principle behind issuing civil penalty notices is that there is no financial gain to the alleged perpetrator of the relevant offences and that funds from the financial penalties should fund private rented sector teams in the Council. To cover the costs of the work put into the serving any financial penalty notice the costs of serving the notice will be added to the overall penalty. This will also act as a deterrent to non-compliant landlords as it is clear that landlords or agents who do not apply will know that they will have to pay for the cost of any enforcement action (where that has not been recovered under other powers).
- The Council will add the cost of officer time and resource used to serve the notice and this will be added to the penalty as a deterrent to non-compliant landlords or agents. This may be reduced or increased where a case is either very straightforward or alternatively takes longer than normal.

Review of the penalty

- The Council will review the penalty and, if necessary adjust the initial amount

reached at step two to ensure that it fulfils the general principles set out above.

- Any quantifiable economic benefit derived from the offence, including through avoided costs or operating savings, should normally be added to the total financial penalty arrived at in step two. Where this is not readily available, the Council may draw on information available from enforcing authorities and others about the general costs of operating within the law.
- Whether the penalty will have the effect of putting the offender out of business will be relevant but in some serious cases this might be an acceptable outcome.

STEP FOUR – Reductions for the wider impact on innocent third parties

- The Council will consider any factors which indicate a reduction in the penalty and in so doing the Council should have regard to the following factors relating to the wider impacts of the financial penalty on innocent third parties; such as (but not limited to):
 - impact of the financial penalty on offender's ability to comply with the law or make restitution to victims;
 - Impact of the financial penalty on employment of staff, service users, customers and local economy.

STEP FIVE – Reduction for early admission of guilt

- The Council will take into account a potential reduction in penalty for an admission of guilt. The following factors will be considered in setting the level of reduction. When deciding on any reduction in a financial penalty, consideration will be given to:
 - The stage in the investigation or thereafter when the offender admitted guilt
 - The circumstances in which they admitted guilt
 - The degree of co-operation with the investigation
- Any reduction should not result in a penalty which is less than the amount of gain from the commission of the offence itself.

STEP SIX - Additional actions

- In all cases the Council must consider whether to take additional action. These may include works in default, Interim Management Orders or Rent Repayment Orders. The Council cannot however take a prosecution case for the same conduct as is the subject of a financial penalty notice.

STEP SEVEN - Totality principle

- If issuing a financial penalty for more than one offence, or where the offender

has already been issued with a financial penalty, the Council shall consider whether the total penalties are just and proportionate to the offending behavior.

- Where the offender is issued with more than one financial penalty, the Council should consider the following guidance from the definitive guideline Offences Taken into Consideration and Totality produced by the sentencing Council.
- The Council should determine the financial penalty for each individual offence based on the seriousness of the offence and taking into account the circumstances of the case including the financial circumstances of the offender so far as they are known, or appear, to the LA.
- The Council should add up the financial penalties for each offence and consider if they are just and proportionate.
- If the aggregate total is not just and proportionate the Council should consider how to reach a just and proportionate financial penalties. There are a number of ways in which this can be achieved.

For example:

- where an offender is to be penalised for two or more offences that arose out of the same incident or where there are multiple offences of a repetitive kind, especially when committed against the same person, it will often be appropriate to impose for the most serious offence a financial penalty which reflects the totality of the offending where this can be achieved within the maximum penalty for that offence. No separate penalty should be imposed for the other offences;
- Where an offender is to be penalised for two or more offences that arose out of different incidents, it will often be appropriate to impose a separate financial penalties for each of the offences. The Council should add up the financial penalties for each offence and consider if they are just and proportionate. If the aggregate amount is not just and proportionate the Council should consider whether all of the financial penalties can be proportionately reduced. Separate financial penalties should then be passed.
- Where separate financial penalties are passed, the Council must be careful to ensure that there is no double-counting.'

STEP EIGHT – Recording the decision

- The officer making a decision about a financial penalty will record their decision giving reasons for coming to the amount of financial penalty that will be imposed. There is no requirement to publish the decision but it must be retained on file.

CABINET

16th January 2019

Subject: Police, Fire and Crime Panel for Essex – Review of Arrangements
Cabinet Member: Councillor Isaacs – Neighbourhood and Safer Communities

1. Purpose of Report

- 1.1 The Police and Crime Panel was established in 2012 to hold the Police and Crime Commissioner to account.**
- 1.2 In October 2017 the Police and Crime Commissioner assumed responsibility for the fire service and the name of the role changed to the Police, Fire and Crime Commissioner. At the same time, the Police and Crime Panel became the Police, Fire and Crime Panel.**
- 1.3 As a result, the functions of the Panel have also changed. It is necessary to update the 'panel arrangements'. These need to be agreed by all 15 local authorities in the Essex police area, which are Essex County Council (ECC), the two unitary councils and the 12 borough, city or district councils. The Panel arrangements have also been updated to reflect the experience of operating the panel over the first 6 years of its existence.**
- 1.4 This report on behalf of ECC asks the Cabinet to agree the revised panel arrangements on behalf of ECC. A similar report is being considered by the other 14 authorities.**

2. Links to Council's Priorities and Objectives

- 2.1 This item links to the Council's Health and Community Safety Priority**

3. Recommendations

- 3.1 To agree the Panel Arrangements at Appendix 1 with effect from 1 February 2019.**
 - 3.2 To note that the rules of procedure at Appendix 1 will be adopted by the Panel and do not form part of the Panel Arrangements.**
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4. Summary of Issues

- 4.1 The fifteen Essex councils each appoint one member to the Police, Fire and Crime Panel. They are also required by law to approve the statutory panel arrangements which govern operation of the Panel. The Panel is required by law to adopt its own rules of procedure.
- 4.2 The current Panel arrangements need to be revised as the Panel's functions changed when the Commissioner became the Police, Fire and Crime Commissioner.
- 4.3 The Panel have now also acquired six years' experience of operation and a number of changes to the rules of procedure are also proposed. For example, the current arrangements do not allow the Panel to have standing committees whereas the Panel wishes to work in this way for some issues such as dealing with formal complaints.
- 4.4 One significant change proposed in the draft Panel Arrangements is that, early in 2018, the Panel decided that it wished to introduce the facility to pay allowances to Members of the Panel. This is permitted by law but only if expressly allowed by the Panel Arrangements. The current arrangements do not allow allowances to be paid. The draft arrangements introduce a new rule which permits the Panel to adopt a scheme of allowances. This would allow payment of allowances to local authority panel members and also to the co-opted panel members. The cost of those allowances, if introduced, would be met by a Home Office grant so there would be no cost to ECC or the other authorities. It should be emphasised that the revised draft panel arrangements do not themselves introduce allowances, they would just allow the Panel to do so if it thought it appropriate. Members of the Panel would not be required to receive an allowance unless they wanted to.
- 4.5 The draft at Appendix one is divided into different sections:
 1. Introduction – Explains the background to the panel and its functions
 2. Functions – Describes the panel's statutory powers
 3. Functions of the Panel – This describes the Panel's statutory powers.
 4. Constitution Part I – The statutory Panel Arrangements
 5. Constitution Part II – Rules of procedure made by the Panel
 6. Appendix – Rules of Procedure made by the Panel
- 4.6 The functions and part 1 of the Constitution (numbers 1-4 above) are to be approved by the local authorities. The rules of procedure are to be approved by the Panel.
- 4.7 The Panel and all fifteen local authorities have been consulted on the draft. No opposition has been received to the proposals but some suggestions have been made for improving the wording which have been incorporated into the draft attached to this report at Appendix 1.
- 4.8 The Panel will consider part II of the Constitution in the appendix which contain the rules of procedure to be adopted by the Panel.

5. Next Steps

- 5.1 All 15 local authorities have been asked to approve this no later than 1 February 2019 when the arrangements will come into force if they have been approved by all authorities.

6. Corporate Implications

(a) Financial Implications

- 6.1 This decision has no financial implications. The cost of operating the Panel is met by a Home Office grant.

(b) Legal Implications

- 6.2 The Panel arrangements are required to be approved by each local authority. The Panel approves its own rules of procedure. The two sets of rules need to fit together so that the Panel operates under a single coherent set of rules.
- 6.3 The Panel is a statutory joint committee of the 15 local authorities with specific statutory functions.

(c) Equality and Diversity implications

- 6.4 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

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

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

- 6.6 The proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic as they simply set out how the Panel will operate to discharge its statutory duties and powers.

7. Timescale for implementation and Risk Factors

The revised arrangements are due to come into effect on 1.2.2019

8. Background Papers

Correspondence with Essex County Council.

THE ESSEX POLICE, FIRE AND CRIME PANEL

FUNCTIONS OF THE PANEL

PART 1 – INTRODUCTION

- 1.1 The Police Reform and Social Responsibility Act 2011 ('the 2011 Act'), requires local authorities to create a Police and Crime Panel). The Panel is responsible for scrutinising and supporting the work of the Police and Crime Commissioner.
- 1.2 The Policing and Crime Act 2017 ('the 2017 Act') introduced new powers for a Police and Crime Commissioner to make a local business case following which the Secretary of State may make an order to make the Commissioner the fire authority for their area.
- 1.3 Under the Police, Fire and Crime Commissioner for Essex (Fire and Rescue Authority) Order 2017 (the Order), which came into effect on 1 October 2017, the Police Crime and Fire Commissioner for Essex was created as the fire and rescue authority for the administrative counties of Essex, Thurrock and Southend under section 4A of the Fire and Rescue Services Act 2004.
- 1.4 The Order provides that the individual elected as the Police and Crime Commissioner for Essex to be the Fire and Rescue Authority, and that they are to be known as the Police, Fire and Crime Commissioner (PFCC).
- 1.5 The 2017 Act amends section 28 (*Powers of Police and Crime Panels*) and Schedule 6 (*Police and Crime Panels*) of the 2011 Act to include the responsibilities of the Police Fire and Crime Commissioner when acting as the fire and rescue authority.
- 1.6 Following the Order, the Commissioner is now known as the Police, Fire and Crime Commissioner and the panel is now known as the Police, Fire and Crime Panel (the Panel).

PART 2 - FUNCTIONS OF THE PANEL

2. Key Functions

- 2.1 The functions of the Panel are to:
 - a) review the draft Police and Crime Plan and the Fire and Rescue Plan and any proposed changes to them
 - b) review the Annual Report and the Fire and Rescue Statement.
 - c) review of the proposed senior appointments of;
 - i) the Deputy PFCC,
 - ii) the PFCC's Chief Executive,
 - iii) the PFCC's Chief Finance Officers;

- iv) the Chief Constable; and
 - v) the Chief Fire Officer.
- d) suspend the PFCC in specific circumstances,
 - e) appoint an acting PFCC in specific circumstances,
 - f) review the precept which the PFCC is proposing to issue for both the Police and the Fire and Rescue, for each financial year with the power to veto the precept.
 - g) To deal with certain complaints against the PFCC or Deputy PFCC.
- 2.2 The Panel must also review or scrutinise decisions made, or other actions taken by the PFCC in connection with the discharge of the PFCC's functions, and must make reports or recommendation to the PFCC in respect to the discharge of their functions.
- 3. Review of the Police and Crime Plan and the Fire and Rescue Plan**
- 3.1 The Panel is a statutory consultee on the development or variation of the Police and Crime Plan and Fire and Rescue Plan ('the Plans'). The Panel will receive a copy of the draft Plans, or any draft variations, from the PFCC.
- 3.2 The Panel must:
- (a) Hold a meeting in public to review the draft Plans (or variations), and
 - (b) Report or make recommendations on the draft Plans which the PFCC must take into account when approving the final documents.
- 3.3 The PFCC is required to provide a response to any such report or recommendations issued by the Panel.
- 4. Review of the Annual Report and Fire and Rescue Statement**
- 4.1 The PFCC must produce an Annual Report and Fire and Rescue Statement for each financial year (the Reports).
- The Annual report must be about the exercise of the PFCC's functions in that financial year and set out progress in delivering on the priorities set out in the Plan.
 - The Fire and Rescue Statement must contains a statement of the way in which the Commissioner, acting as Fire and Rescue Authority has had regard, in the period covered by the document, to the Fire and Rescue National Framework and to any fire and rescue plan prepared by the authority for that period.

The Panel must review the Reports.

4.2 The Panel must:

- (a) Arrange for a meeting of the Panel to be held in public as soon as practicable after the Panel receives each Report;
- (b) Require the PFCC to attend the meeting to present the Reports to the Panel, and answer such questions about the Reports as the Panel think appropriate; and
- (c) Make a report or recommendations on the Annual Report and Fire and Rescue Statement to the PFCC.

4.3 The PFCC is required to respond to any report or recommendations issued by the Panel.

5. Senior Appointments

5.1 The Panel must be notified by the PFCC of each proposed appointment of the Chief Constable, Chief Fire Officer, Chief Executive of the Office of the PFCC, Chief Finance Officer (of the OPFCC or the Fire and Rescue Authority) and the Deputy PFCC.

5.2 The PFCC must also notify the Panel of the following information:

- a) The name of the person the PFCC is proposing to appoint (the Candidate)
- b) The criteria used to assess the suitability of the Candidate for the appointment,
- c) Why the Candidate satisfies those criteria, and
- d) The terms and conditions on which the Candidate is proposed to be appointed.

5.3 Within 3 weeks, beginning with the day on which the Panel received the notification from the PFCC of the proposed senior appointment, the Panel must:

- a) Review the proposed senior appointment;
- b) Make a report to the PFCC,
- c) The report must include a recommendation as to whether or not the Candidate should be appointed.

5.4 Before making a report under paragraph 5.3 (b), the Panel must hold a confirmation hearing. This is a meeting of the Panel, held in public at which the Candidate is requested to appear for the purpose of answering questions relating to the appointment.

5.5 The confirmation hearing will be held at the next available meeting of the Panel unless the appointment timescale requires an earlier hearing, in which case the Chairman will arrange an extraordinary meeting at the request of the Chairman.

5.6 The Candidate may appear before the Panel either in person, or by any means which enables the Candidate to participate in the confirmation hearing

through means which enable the person to hear, and be heard in, those proceedings as they happen.

- 5.7 The PFCC must notify the Panel of the decision whether or not the PFCC accepts or rejects any recommendation made by the Panel.
- 5.8 When the Panel is considering the proposed appointment of the Chief Constable or the Chief Fire Officer, the Panel may, having reviewed the proposal and having held the confirmation hearing, veto the appointment of the Candidate to this position.
- 5.9 The ability to veto the proposed appointment of the Chief Constable is only exercisable by the Panel during the 3 week period beginning on the day the Panel received notification from the PFCC.

6. Suspension and Removal of the Chief Constable or Chief Fire Officer

- 6.1 If the PFCC suspends the Chief Constable or Chief Fire Officer from duty they must notify the Panel of the suspension.
- 6.2 If the PFCC proposes to call upon the Chief Constable or the Chief Fire Officer to retire or resign they must give the Panel;
 - a) written notification that the PFCC of that fact;
 - b) a copy of the reasons given to the Officer concerned; and
 - c) a copy of any representations made by the Officer against those reasons.
- 6.3 The PFCC cannot call upon the Officer to retire or resign until the Panel has considered the documents and given the PFCC any recommendations as to whether or not the PFCC should call for retirement or resignation.
- 6.4 Before making any recommendation to the PFCC, the Panel;
 - a) may consult with the Chief Inspector of Constabulary; and
 - b) must hold a scrutiny hearing, within 6 weeks beginning on the day on which notification was given by the PFCC.
- 6.5 The scrutiny hearing is a meeting of the Panel held in private at which the PFCC and the Officer concerned are both entitled to attend for the purpose of making representations relating to the proposal.
- 6.6 The Panel must publish the recommendation it makes by sending copies to each of the local authorities who appoint members to the Panel, and by any other means the Panel considers appropriate.
- 6.7 The PFCC must consider the Panel's recommendation and may accept or reject it, notifying the Panel accordingly.

7. Power to Suspend the PFCC

- 7.1 A Panel may suspend the PFCC if it appears to the Panel that:
- a) The PFCC has been charged in the United Kingdom, the Channel Islands or the Isle of Man with an offence, and
 - b) The offence is one which carries a maximum term of imprisonment exceeding two years.
- 7.2 The suspension of the PFCC ceases to have effect upon the occurrence of the earliest of these events:
- a) The charge being dropped.
 - b) The PFCC being acquitted of the offence.
 - c) The PFCC being convicted of the offence but not being disqualified under Section 66 of the Police Reform and Social Responsibility Act by virtue of the conviction.
 - d) The termination of the suspension by the Panel.
- 7.3 In this section references to an offence which carries a maximum term of imprisonment exceeding two years are references to:
- a) An offence which carries such a maximum term in the case of a person who has attained the age of 18 years, or
 - b) An offence for which, in the case of such a person, the sentence is fixed by law as life imprisonment.

8. Appointment of an Acting Police, Fire and Crime Commissioner

- 8.1 The Panel must appoint a person to act as PFCC if:
- a) no person holds the office of PFCC,
 - b) the PFCC is incapacitated; or
 - c) the PFCC is suspended.
- 8.2 The Panel may appoint a person as acting PFCC only if the person is a member of the PFCC's staff at the time of the appointment.
- 8.3 In appointing a person as acting commissioner in a case where the PFCC is incapacitated, the Panel must have regard to any representations made by the PFCC in relation to the appointment.
- 8.4 The appointment of an acting PFCC ceases to have effect upon the occurrence of the earliest of these events:
- a) the election of a person as PFCC.
 - b) the termination by the Panel, or by the acting PFCC, of the appointment of the acting PFCC.
 - c) in a case where the acting PFCC is appointed because the PFCC is incapacitated, the PFCC ceasing to be incapacitated, or

- d) in a case where the acting PFCC is appointed because the PFCC is suspended, the PFCC ceases to be suspended.

8.5 The rules about the election as PFCC are beyond the scope of this document but generally a by election is required if the PFCC ceases to hold office.

9. Proposed Precept

9.1 The PFCC will notify the Panel of the precepts which the PFCC proposes to issue for the financial year for (i) Policing and (ii) Fire and Rescue Services.

9.2 The Panel must review the proposed precepts and make a report to the PFCC which will include recommendations as to the precept that should be issued for the financial year.

9.3 Having considered the precept, the Panel must decide to either:

- a) support the precepts without qualification or comment;
- b) support the precepts and make recommendations, or
- c) veto the proposed precepts (by the required majority of at least two thirds of the persons who are members of the panel at the time when the decision is made).

9.4 If the Panel vetoes the proposed precepts, the report to the PFCC must include a statement that the Panel has vetoed the proposed precepts and give the reasons for that decision.

9.5 The PFCC must, having regard to the report issued by the Panel, provide a response to the report and any recommendations. Such a response shall be published by the Panel. The PFCC must then reconsider and issue a final precept.

10. Complaints about the PFCC or Deputy PFCC

10.1 The Panel can consider any complaint about the PFCC or Deputy PFCC relating to the conduct of the PFCC, other than one which is to be considered by the Independent Office of Police Conduct. Consideration of such a complaint is to be in accordance with a policy adopted by the Panel from time to time and may be delegated to the Monitoring Officer of the Lead Authority or by the Panels Complaints Sub-Committee.

CONSTITUTION OF THE ESSEX POLICE, FIRE AND CRIME PANEL

PART 1 – Composition of the Panel

1. Administration of the Panel

- 1.1 Essex County Council shall act as the Lead Authority in establishing the Police, Fire and Crime Panel and provide the necessary officer support. The Lead Authority will designate one of its officers to act as the Secretary to the Panel.
- 1.2 The Lead Authority will provide such administrative and other support as is necessary to enable the Panel to undertake its functions. Home Office funding is provided to support the administration of the Panel. If no funds are provided by the Home Office, or if those funds are insufficient to cover the costs of running the Panel, the Lead Authority will defray and recover from the other members the costs of administrative support with each authority bearing an equal share of the costs. The budget for the Panel will be agreed annually and the Panel will operate within the allocated budget.
- 1.3 In the event of the Panel being abolished, the Lead Authority will defray and recover from the other member authorities any associated costs exceeding the funding provided by the Home Office, with each authority bearing an equal share of the cost.
- 1.4 The Secretary and any dedicated staff employed to support the Panel will be employed by the Lead Authority, and their terms and conditions of employment will be those of the Lead Authority.

2. Membership

- 2.1 The Panel shall comprise of:
 - 15 councillors, one appointed by each of the fifteen councils in the Essex Police area ('the Councils');
 - two independent members appointed by the Panel; and
 - up to three additional members.
- 2.2 Any Councillor from the 15 appointing Councils is eligible for membership of the Panel. The appointment of elected members to the Panel shall be made by each of the appointing Councils in accordance with their own procedures, having regard to:
 - (1) The balanced appointment objective. The balanced appointment objective is that the local authority members of the Panel should:
 - a) Represent all parts of the police force and fire and rescue service area;
 - b) Represent the political make-up of the Councils taken together; and

- c) Have the skills, knowledge and experience necessary to enable the Panel to discharge its functions effectively.
- (2) The fire and rescue expertise objective. This is the objective that that members of the panel (when taken together) have the skills, knowledge and experience necessary for the panel effectively to discharge its functions in relation to the fire and rescue authority.
- 2.3 Each Council may appoint one or more substitute member who can attend a meeting of the Panel in the absence of the principal member. Any substitution will apply to a particular meeting and takes effect if either the appointing authority or the substituted member gives notice in writing or by email to the Secretary before the start of the meeting concerned.
- 2.4 A Member of the Panel appointed by a Council remains a member of the Panel unless and until:
 - (a) They cease to be a member of the Council which appointed them;
 - (b) They resign as a member of the Panel by giving notice to the Secretary; or
 - (c) The Council which appointed them removes them as a member of the panel or appoints another member in their place.
- 2.5 Two independent members may be co-opted onto the Panel by the Panel from time to time in accordance with section 4 of this document.
- 2.6 Up to three additional nominations will be invited to positions for co-opted members to seek to achieve the balanced appointment objective. The Panel will determine how this should be achieved subject to approval by the Secretary of State.
- 2.7 In co-opting members, the Panel:
 - (a) must secure that (as far as is reasonably practicable) the appointed and co-opted members of the Panel (when taken together) have the skills, knowledge and experience necessary for the police and crime panel to discharge its functions effectively.
 - (b) must consider whether they could co-opt in a way which would enable the fire and rescue expertise objective to be met or to contribute to that objective being met and, if they consider that they could exercise that function to that end, must do so.

The "fire and rescue expertise objective" referred to in this paragraph is the objective that members of the panel (when taken together) have the skills, knowledge and experience necessary for the panel effectively to discharge its functions in relation to the fire and rescue authority.

3 Vacancies in Council appointed Members

- 3.1 A vacancy on the Panel arises when a member ceases to be a member of the panel for any reason.
- 3.2 If a Council does not have an appointed member on the Panel then it shall fill its vacancy as quickly as possible.
- 3.3 If a Council does not appoint a Member in accordance with these requirements, the Secretary will give notice to the Secretary of State must appoint a member to the Panel from the defaulting council in accordance with the provisions of the 2011 Act.
- 3.4 A substitute appointed under paragraph 2.3 may attend meetings in default of a Council appointing a substantive member.

4 Independent Members

- 4.1 The Panel shall appoint two independent members onto the Panel. Each appointment shall be for a term of four years or such other period as the panel may determine.
- 4.2 The selection process for co-opting independent members should include:
 - a) a reasonable period of advertising for the positions.
 - b) the closing date for the receipt of applications should be at least two weeks from the date the advert is first placed.
 - c) Information packs should be prepared and sent to those requesting application forms.
- 4.3 The applications will be considered against eligibility criteria agreed by the Panel. An Appointments Sub-Committee will be established by the Panel to consider applications and conduct the interviews of potential candidates.
- 4.4 The following individuals shall not be appointed as an Independent Member of the Panel:
 - a) A member of staff of the PFCC
 - b) A member of the civilian staff of the Essex police force
 - c) A Member of Parliament
 - d) A member of staff of the Essex Fire and Rescue Authority, or
 - e) A Councillor of one of the Councils
- 4.5 Following interviews of potential candidates, the Appointments Sub-Committee will make recommendations to the Panel about each Candidate's suitability for appointment as an Independent Member.
- 4.6 The Panel may decide to remove either Independent Member at any point and on doing so shall give notice to the Secretary to the Panel.

- 4.7 The term of office of an additional member co-opted to the Panel to reflect better the Political balance across the Police Force and Fire and Rescue Service area shall be for one year or such other period as the Panel may determine. The member may be co-opted for a further term provided that the balanced appointment objective is still met by their co-option.

5 Allowances

- 5.1 The Panel may from time to time decide to pay allowances to members of the Panel. Any allowance shall be in accordance with a scheme approved by the Panel.
- 5.2 No Member of the Panel may claim an allowance from two bodies with respect to their role as a member of the Panel.

6 Promotion of the Panel

- 6.1 The Panel shall be promoted and supported by the Lead Authority through:
- a) The issuing of regular press releases, after consulting the Chairman about the Panel and its work.
 - b) The inclusion of dedicated web pages on the work of the Panel, with the publication of Agendas and minutes. All reports and recommendations made, with responses from the PFCC will be published.

7 Validity of proceedings

- 8.1 The validity of the proceedings of the Panel is not affected by a vacancy in the membership or a defect in the appointment of a member.

8 Amendments to Terms of Reference, Panel Arrangements and Procedure Rules

- 8.1 Any proposed amendments to the Panel Arrangements should be submitted to the Councils for approval. In addition, the Panel will review this document annually and if any changes are necessary these will be submitted to the Councils for approval.

PART 2 - PROCEDURE RULES

9. Annual Meeting

- 9.1 The first ordinary meeting of the panel held after 1 April in any year shall be the annual meeting of the Panel.

10. Chairman and Vice-Chairman

- 10.1 The Chairman will be elected from amongst the members of the Panel.

- 10.2 The election of Chairman shall be the first business transacted at the Annual Meeting. The election shall be by show of hands unless, at a meeting before the annual meeting, the Panel has resolved to elect a chairman for a particular municipal year by secret ballot. Where the Panel proposes to use a secret ballot the process shall be as set out in the appendix.
- 10.2 The Vice-Chairman will be appointed at the Annual Meeting, and this shall be the item of business following the election of Chairman. The Vice Chairman will be elected from amongst the members of the Panel.
- 10.3 In the event of the resignation of the Chairman or Vice Chairman or if either of them ceases to be a member of the Panel, a replacement will be appointed at the next meeting and will be drawn from amongst the Council members sitting on the Panel.
- 10.4 The Chairman shall preside at any meeting of the Panel. The Vice Chairman shall preside in the absence of the Chairman. If neither the Chairman nor the Vice-Chairman is present at a meeting of the Panel, the other members of the Panel shall choose another member of the Panel to preside at the meeting.

11. Meetings

- 11.1 There shall be a minimum of four ordinary meetings held in each year to carry out the functions of the Panel. Each meeting shall not last for more than three hours unless the meeting resolves to extend this time.
- 11.2 These meetings shall be open to the press and public except where the Panel resolves to exclude the press and public in accordance with the law in accordance with part VA of the Local Government Act 1972.
- 11.3 An extraordinary meeting may be called by the Chairman of the Panel, by any five members of the Panel giving notice to the Secretary or by the Monitoring Officer of the PFCC's Office.
- 11.4 The Chairman may cancel or rearrange a meeting.
- 11.5 The meeting at which the Precept is to be considered shall be the only business transacted at that meeting.
- 11.6 All meetings of the Panel will take place at either Essex County Council, County Hall, Chelmsford or at Essex County Fire and Rescue Headquarters, Kelvedon Park, or such other suitable venue selected by the Chairman.
- 11.7 The Secretary will give notice to the public of the time and place of any meeting in accordance with Part VA of the Local Government Act 1972. At least five clear days before a meeting, the Secretary to the Panel will send a summons by email and, if the Member so requests, by post to every Member at their last known address. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

12. Quorum

- 12.1 A meeting of the Panel cannot take place unless one third of the whole number of its members is present.
- 12.2 If there is no quorum present at the time fixed for start of the meeting the meeting may not commence at that time. If after 1 hour after the time specified for the start of the meeting, the meeting is still not quorate then the meeting shall stand adjourned to another time and date determined by the Secretary.

13. Voting

- 13.1 All members of the Panel may vote in proceedings of the Panel subject to the rules on declarations of interest.
- 13.2 One-third of the voting members present may require that the way all members cast their vote or abstained shall be recorded in the Minutes; such a request must be made before the vote is taken.
- 13.3 In the event of equality of votes the person presiding at the meeting at the meeting will be entitled to a casting vote under paragraph 39(1) of Schedule 12 to the Local Government Act 1972.
- 13.4 There is a non-binding convention that Chairman will exercise the casting vote in favour of the status quo.

14. Work Programme

- 14.1 The Panel will be responsible for setting its own work programme taking into account the priorities defined by the PFCC in terms of policing and crime, and fire and rescue. In setting the work programme the Panel will also take into account the wishes of its members.
- 14.2 The work programme must include the functions set out in the Panel's terms of reference.

15. Agenda items

- 15.1 Any member of the Panel shall be entitled to give notice to the Secretary to the Panel that he or she wishes an item relevant to the functions of the Panel to be included on the agenda for the next available meeting.

16. Reports of the Police, Fire and Crime Panel

- 16.1 Where the Panel makes a report to the PFCC, it must publish the report and the recommendations in that report.
- 16.2 The Panel must send copies of any such reports or recommendations to each of the Councils.

- 16.2 The Panel must by notice in writing require the PFCC, as appropriate, within one month of the date on which they receive the report or recommendations:
- a) to consider the report or recommendations;
 - b) to respond to the Panel indicating what (if any) action the PFCC proposes to take; and
 - c) where the Panel has published the report or recommendations, publish the response.
- 16.3 Where the Panel has provided a copy of the report or recommendations to a member, provide a copy of the response to the member.
- 16.4 The publication of reports or recommendations is subject to the exclusion of any exempt or confidential information as defined in the rules on access to information in part VA of the Local Government Act 1972.
- 16.5 If the Panel cannot unanimously agree on one single final report to the PFCC then one separate report may be prepared and submitted for consideration along with the majority report.

17. Police, Fire and Crime Commissioner and Officers Giving Account

- 17.1 The Panel may scrutinise and review decisions made or actions taken in connection with the PFCC's role. As well as reviewing documentation, in fulfilling its scrutiny role it may require the PFCC, and members of the PFCC's staff, to attend before the Panel to answer any questions which appear to the Panel to be necessary in order to carry out its functions.
- 17.2 If the Panel require the PFCC to attend before the Panel, the Panel may request either or both of the Chief Constable and the Chief Fire Officer to attend before the Panel on the same occasion to answer any questions which appear to the Panel to be necessary in order for it to carry out its functions.
- 17.3 When the Panel requests or requires anyone to attend before it under this paragraph it will give reasonable notice and, where practical, this shall be at least 15 days' notice. Where it is necessary for the person attending to produce a report the Panel shall allow sufficient time for preparation of that report.
- 17.4 The Secretary will give anyone who is required or requested to attend a meeting a written notice giving the time, date and place of the meeting. The notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required for production for the Panel.
- 17.5 Where, in exceptional circumstances, an individual who has been given notice under paragraph 17.4 is unable to attend on the required date, an alternative

date for attendance may be arranged following consultation with the Chairman.

18. Attendance by Others

- 18.1 The Panel may invite people other than those referred to above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders, Councillors who are not members of the Panel and officers in other parts of the public sector and may invite such people to attend.

19. Public Access

- 19.1 Copies of the agenda for meetings of the Panel and any reports for its meetings shall be open to inspection by members of the public at the offices of the Councils with the exception of any report which the Secretary to the Panel determines relates to items which in his or her opinion are likely to be considered at a time when the meeting is not to be open to the public.
- 19.2 Minutes and reports for the meeting shall be published to the extent required by part VA of the Local Government Act 1972.
- 19.3 If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will arrange for their removal from the meeting room and will suspend the meeting until the member of the public has left or been removed.
- 19.4 If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.
- 19.5 A member of the public may attend the meeting and ask a question of the Panel. Such questions should only relate specifically to an item on the agenda for that meeting.

20 Minutes

- 20.1 The Secretary to the Panel shall arrange for written minutes to be taken at each meeting of the Panel and shall present them to the Panel at its next meeting for approval as a correct record. At the next meeting of the Panel, the Chairman shall move that the minutes of the previous meeting be signed as a correct record. If this is agreed, the Chairman shall sign the minutes. The only part of the minutes that can be discussed is their accuracy.
- 20.2 Draft minutes or a summary of the decisions taken at the meeting and a note of the actions arising shall be circulated to the Panel by email no later than 7 days after the date of the meeting.

21. Sub-Committees and Task Groups

- 21.1 The Panel may from time to time establish task groups or sub committees.

- 21.2 The 'special functions' of the Panel may not be discharged by a sub-committee or a task group.
- 21.3 In this paragraph 'special functions' means the following functions conferred on the Panel by the Police Reform and Social Responsibility Act 2011:
- a) Scrutiny of Police and Crime Plan and Fire and Rescue Plan.
 - b) Scrutiny of annual report and the Fire and Rescue Statement.
 - c) Review of senior appointments.
 - d) Considering precepts.
 - e) Scrutiny of appointment of the Chief Constable or Chief Fire Officer.
- 21.4 The work undertaken by a sub-committee or task group will be scoped and defined beforehand. The scope may include the timeframe within which the work is to be completed and the reporting time for the outcome of the work.
- 21.5 Where it is not possible to reach a consensus, attempts will be made to reflect minority views within the report but there is no provision for minority reports from members of Sub-Committees or Task Groups.
- 21.6 Any reports of a Sub-Committee or a Task Group shall be reviewed by the Panel which will decide whether to ratify the findings or recommendations. This shall not apply where a Sub Committee has delegated authority to act.
- 21.7 Paragraph 17 (Police, Fire and Crime Commissioner and Officers giving account) and 18 (Attendance by Others) apply to Sub-Committees and Task Groups in the same way as they apply to the Panel.

Election of Chairman by Secret Ballot

1. This process applies to the election of Chairman for a municipal year only if the Panel has resolved at a meeting before the annual meeting that the Chairman of the Panel will be elected by Secret Ballot for that particular municipal year.
2. The Lead Authority will write to all members of the Panel to invite nominations. No nominations will be accepted after 12 noon on the day before the meeting. A member may nominate any Councillor member of the Panel (including themselves). If no nominations are received by the deadline, the Panel may resolve to accept late nominations.
3. At the annual meeting a proposer and seconder will be invited for each candidate. If a candidate is not proposed and seconded then they shall not be eligible to be elected.
4. The outgoing Chairman or the person presiding at the meeting will confirm with each eligible nominee that they are willing to be appointed as Chairman
5. All nominated persons will be added to the ballot paper if they:
 - Have been proposed and seconded; and
 - Have indicated that they are willing to be appointed as Chairman.
6. If there is only one nominee their name will be put to the meeting for approval.
7. Where there is more than one nominee then a ballot paper will be prepared including the name of each candidate.
8. A ballot paper will be given to each member of the panel who is present at the meeting.
9. A period of 10 minutes (or such other period as the person presiding at the meeting may determine) to cast a vote.
10. Any member of the Panel may ask to have their vote recorded in the minutes in which case they shall hand their ballot paper to the officer so that the way they have voted may be verified.
11. If a tie occurs the outgoing Chairman shall have a second or casting vote
12. If there are more than two candidates nominated and after the vote no candidate has the majority of votes cast then the name of the person having the least number of votes will be eliminated and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.

**CABINET
16th January 2019**

Subject: Review of Car Parks and Car Parking Charges

Cabinet Member: Councillor Varker – Environment and Leisure

1. Purpose of Report

The purpose of this report is to consider the proposed (1) extension of the chargeable period at the Council's seafront car parks, (2) provision of new chargeable car parking at the seafront in accordance with the approved seafront masterplan, (3) increases to the car parking charges in the Council's car parks throughout the Borough and (4) amendment to the Scheme of Delegation in relation to the setting of car parking charges.

2. Links to Council's Priorities and Objectives

This report links directly with the Council's "Environment" objective.

3. Recommendations

It is recommended that;

- (1) Cabinet endorses the proposed increases in car parking charges as set out in the appendix to this report;
 - (2) Cabinet endorses subject to funding, the provision of new off street seafront car parking in Western Esplanade and at Thorney Bay;
 - (3) Cabinet endorses a year round charge for the use of all the Council operated sea front car parks; and that
 - (4) The Head of Environment is authorised in consultation with the Cabinet Member for Environment and Leisure and the Cabinet Member for Finance, Policy and Resources to periodically review and introduce new car parking charges for the specified chargeable periods as detailed in the Borough Council of Castle Point (Off Street Parking Places) (General) Order 2013 as amended.
-

4. Background

The Council owns and operates a number of car parks throughout the Borough. A comprehensive review of the service was undertaken in 2013/14 which culminated in Cabinet (1) endorsing a revised Off Street Traffic Regulation Order which introduced a new charging regime/waiting restrictions across the Borough and (2) committing to a **£240k** investment programme to upgrade Council owned car parks. To ensure consistency in charging across the borough the car parks were classified according to their primary use, i.e. town centre short stay, town centre long stay, seafront, commuter or car parks associated with use of Council facilities/land.

As a consequence of the car park investment programme, six car parks i.e. School Lane, Oak Road, Richmond Hall, Hart Road, Rectory Road and Essex Way have now achieved the nationally recognised Park Mark award. The Council has also obtained the Disabled Parking Accreditation (DPA) award for Waterside Farm, Rectory Road, Hart Road, Oak Road and Richmond Hall car parks.

At its meeting on 18th November 2015 Cabinet endorsed an increase in the weekday (Monday to Friday) long stay parking charge at the School Lane car park from £5.00 to £5.50. This increase was partly to manage demand for long stay car parking spaces. Whilst this was successful initially, the long stay bays are now once again regularly up to full capacity and insufficient to meet demand. To help address this problem it is proposed to allow the existing short stay bays which are not so well used, to be used for both short or long stay parking on a first come, first served basis in order to make best use of the available parking space.

Given that the Council is limited in what it can do to increase long stay parking provision in this car park, managing demand by increasing the weekday long stay daily parking charge is another option that needs to be given serious consideration. It is likely that the car park is being used by residents outside of the Borough as the annual season ticket from Benfleet to London is £3,408 compared with £3,904 from Rayleigh to London. Also parking at Rayleigh station is more expensive than at the School Lane car park.

New charges at the Council's chargeable town centre and seafront car parks took effect from 2nd October 2017.

It is appropriate as with all fees and charges, to periodically review car park charges. The appendix to this report sets out proposed increases to the car parking charges. These modest increases balance the need to cover increased operational costs and maximise income generation with the desire to support the economic sustainability of the town centres and the seafront area. Even with these proposed increases the charges compare favourably with car parking costs in neighbouring local authorities.

The existing Off Street Order charging period includes Saturdays for town centre car parks although we currently do not charge for usage on Saturdays. It is proposed to introduce a Saturday charge in line with weekday charges. It

is also proposed to introduce a charge for long stay car parking at School Lane car park on Sundays.

The Canvey seafront masterplan envisages an extended car park at Thorney Bay and the provision of off street overspill car parking along the length of Western Esplanade. The Off Street Parking Order will need to be amended to incorporate these new areas so that compliance with usage conditions can be enforced once they become operational. The proposed introduction of a year round modest charge for seafront car parking is consistent with the masterplan vision of making Canvey seafront a year round visitor destination and the additional income will help to offset the cost of extending and operating the seafront car parks and other seafront amenities.

The Head of Environment has delegated authority to determine fees and charges for all services within her remit, with the exception of car parking charges. It is proposed to delegate authority for future changes to the Head of Environment to determine car parking for the chargeable periods as detailed in the Borough Council of Castle Point (Off Street Parking Places) (General) Order 2013 as amended, in consultation with the Cabinet Member for Environment and Leisure and the Cabinet Member for Finance, Policy and Resources

5. Corporate Implications

(a) Financial Implications

General Financial Statement:

The Medium Term Financial Forecast indicates a significant funding gap in each financial year from 2020/2021 onwards and the Council is continuing to progress a programme of work which is intended to close the funding gap.

Based on current car park usage and the estimated winter usage of the seafront car parks it is predicted that the proposed increases will generate an additional income of approximately **£100k** per annum which will help to cover inflationary management and maintenance costs, reduce the budget gap in future years and/or support other Council services.

The cost of implementing the changes to the charges and the amendment to the off Street Parking Order will be approximately **£6k**. There will be an ongoing cost of **£5k** for the additional emptying of the seafront car park machines during the winter period.

These figures will be reflected in the Policy Framework and Budget Setting Report due to be approved in February 2019.

The cost of additional enforcement for the extended chargeable periods will be offset from income from Penalty Charge Notices.

Income from car parking charges helps to offset the cost of maintaining Council operated car parks and the cost of other Council services.

(b) Legal Implications

It will be necessary to advertise the proposed increases to parking charges in a local newspaper prior to their implementation.

Extension to the chargeable periods and the provision of new chargeable off street car parking will require an amendment to the Borough of Castle Point (Off Street Parking Places) (General) Order 2013 following the required statutory consultation.

(c) Human Resources and Equality Implications

Human Resources

Chelmsford City Council is responsible through a Service Level Agreement for enforcing the Council's off street parking restrictions.

Equality Implications

Parking is available free of charge for blue badge holders at all the Council's car parks with the exception of the School Lane car park.

Alternative free long stay parking provision is available close to all town centre areas.

6. Timescale for implementation and Risk Factors

It is proposed that the new charges will take effect from Monday 15th April 2019 and amendments to the chargeable periods will take effect from 1st October 2019. The timescale for the provision of new off street extended car parking at Thorney Bay and along Western Esplanade will be dependent on third party funding or a robust business case in order to secure the necessary funding.

Background Papers

None

Report Author: Trudie Bragg, Head of Environment

Car Park Charges Review 2019

Name of car park	Car Park Category	Existing Charging Period	Proposed Charging Period	Waiting Restrictions	Existing car park charge	Proposed car park charge
Labworth Large Car Park, Canvey Island	Seafront - seasonal	9.00 a.m. – 7.00 p.m. from Good Friday to 30 September, including Bank Holidays	9.00 a.m. – 7.00 p.m. throughout the year, including Bank Holidays	Maximum stay 16 hours Car park may be locked after 7.00 p.m. by local residents/businesses	60p for up to 1 hour £1.00 for up to 2 hours £1.50 for up to 3 hours £3 for >3 hours Labworth permit - £150	60p for up to 1 hour £1.00 for up to 2 hours 2.00 for up to 3 hours £4 for >3 hours Labworth permit - £160
Labworth Small Car Park, Canvey Island	Seafront - seasonal	9.00 a.m. – 7.00 p.m. from Good Friday to 30 September, including Bank Holidays	9.00 a.m. – 7.00 p.m. throughout the year, including Bank Holidays	Maximum stay 16 hours Opening times: 7.a.m. to 7.00 p.m. October to March 7 a.m. to 9.00 p.m. April to September	60p for up to 1 hour £1.00 for up to 2 hours £1.50 for up to 3 hours £3 for >3 hours	60p for up to 1 hour £1.00 for up to 2 hours 2.00 for up to 3 hours £4 for >3 hours Labworth permit - £160
Lubbins Car park, Canvey Island	Seafront - seasonal	9.00 a.m. – 7.00 p.m. from Good Friday to 30 September, including Bank Holidays	9.00 a.m. – 7.00 p.m. throughout the year, including Bank Holidays	Maximum stay 16 hours	60p for up to 1 hour £1.00 for up to 2 hours £1.50 for up to 3 hours £3 for >3 hours	60p for up to 1 hour £1.00 for up to 2 hours 2.00 for up to 3 hours £4 for >3 hours

Name of car park	Car Park Category	Existing Charging Period	Proposed Charging Period	Waiting Restrictions	Existing car park charge	Proposed car park charge
Thorney Bay Car Park, Canvey Island	Seafront - seasonal	9.00 a.m. – 7.00 p.m. from Good Friday to 30 September, including Bank Holidays	9.00 a.m. – 7.00 p.m. throughout the year, including Bank Holidays	Maximum stay 16 hours	60p for up to 1 hour £1.00 for up to 2 hours £1.50 for up to 3 hours £3 for >3 hours	60p for up to 1 hour £1.00 for up to 2 hours 2.00 for up to 3 hours £4 for >3 hours
Western Esplanade Overspill Car Park (new car park to be provided in accordance with Seafront masterplan)	Seafront - seasonal	N/A	9.00 a.m. – 7.00 p.m. throughout the year, including Bank Holidays NB Availability will be subject to ground conditions	Maximum stay 16 hours	N/A	60p for up to 1 hour £1.00 for up to 2 hours 2.00 for up to 3 hours £4 for >3 hours
Essex Way, Benfleet	Short Stay – Town Centre	9.00 a.m. – 5.00 p.m. Monday to Saturday, excluding Bank Holidays	9.00 a.m. – 5.00 p.m. Monday to Saturday, excluding Bank Holidays	Maximum stay 3 hours, no return within 2 hours	Monday – Friday: 50p for up to 1 hour £1.00 for up to 2 hours £2.00 for up to 3 hours Saturday: free	Monday – Saturday: 60p for up to 1 hour £1.10 for up to 2 hours £2.20 for up to 3 hours
Hart Road, Thundersley	Short Stay – Town Centre	No Charge		Maximum stay 3 hours, no return within 2 hours	No Charge	No Charge

Name of car park	Car Park Category	Existing Charging Period	Proposed Charging Period	Waiting Restrictions	Existing car park charge	Proposed car park charge
Homestead Road, Hadleigh	Short Stay – Town Centre	No Charge		Maximum stay 3 hours, no return within 2 hours	No Charge	No Charge
Oak Road, Canvey Island	Short Stay – Town Centre	9.00 a.m. – 6.00 p.m. Monday to Saturday, excluding Bank Holidays	9.00 a.m. – 6.00 p.m. Monday to Saturday, excluding Bank Holidays	Maximum stay 3 hours, no return within 2 hours	Monday – Friday: 50p for up to 1 hour £1.00 for up to 2 hours £2.00 for up to 3 hours Saturday: free	Monday – Saturday: 60p for up to 1 hour £1.10 for up to 2 hours £2.20 for up to 3 hours
Rectory Road, Hadleigh	Short Stay – Town Centre	9.00 a.m. – 6.00 p.m. Monday to Saturday, excluding Bank Holidays	9.00 a.m. – 6.00 p.m. Monday to Saturday, excluding Bank Holidays	Maximum stay 3 hours, no return within 2 hours	Monday – Friday: 50p for up to 1 hour £1.00 for up to 2 hours £2.00 for up to 3 hours Saturday: free	Monday – Saturday: 60p for up to 1 hour £1.10 for up to 2 hours £2.20 for up to 3 hours
Richmond Hall, Benfleet	Short Stay – Town Centre	9.00 a.m. – 6.00 p.m. Monday to Saturday, excluding Bank Holidays	9.00 a.m. – 6.00 p.m. Monday to Saturday, excluding Bank Holidays	Maximum stay 3 hours, no return within 2 hours	Monday – Friday: 50p for up to 1 hour £1.00 for up to 2 hours £2.00 for up to 3 hours Saturday: free	Monday – Saturday: 60p for up to 1 hour £1.10 for up to 2 hours £2.20 for up to 3 hours

Name of car park	Car Park Category	Existing Charging Period	Proposed Charging Period	Waiting Restrictions	Existing car park charge	Proposed car park charge
Richmond Avenue, Benfleet	Long Stay – Town Centre	No Charge	9.00 a.m. – 6.00 p.m. Monday to Saturday, excluding Bank Holidays	Maximum stay 16 hours Car park may be closed after 7.00 p.m. by local residents/businesses	No Charge	No Charge
Castle Lane, Hadleigh	Long Stay – Town Centre	No Charge		Maximum stay 24 hours	No Charge	No Charge
School Lane, Benfleet	Commuter	<p>Long stay spaces: 9.00 a.m. – 5.00 p.m., Monday – Saturday, excluding Bank Holidays</p> <p>Designated short stay spaces: 9.00 a.m. – 5.00 p.m., Monday – Saturday, excluding Bank Holidays</p>	<p>Long stay spaces: 9.00 a.m. – 5.00 p.m., Monday – Sunday, excluding Bank Holidays</p> <p>Designated short stay spaces: 9.00 a.m. – 5.00 p.m., Monday – Sunday, excluding Bank Holidays</p>	<p>No restriction on long stay</p> <p>Maximum stay 3 hours, no return within 2 hours</p>	<p>Long Stay: Monday – Friday: £5.50 per day Saturday: £3 per day</p> <p>Short Stay (limited spaces): Monday – Friday: 50p for up to 1 hour £1.00 for up to 2 hours £2.00 for up to 3 hours Saturday: free</p> <p>NB No exemption for blue badge holders</p> <p>£200 - annual resident Parking</p>	<p>Long Stay: Monday – Friday: £6.00 per day Saturday/Sunday: £3 per day</p> <p>Short Stay (limited spaces): Monday – Sunday: 60p for up to 1 hour £1.10 for up to 2 hours £2.20 for up to 3 hours</p> <p>NB No exemption for blue badge holders</p> <p>£220 - annual resident Parking Permit for eligible</p>

Name of car park	Car Park Category	Existing Charging Period	Proposed Charging Period	Waiting Restrictions	Existing car park charge	Proposed car park charge
					Permit for eligible properties only (one per household) Annual season ticket (Doctor's surgery only) - £700	properties only (one per household) Annual season ticket (Doctor's surgery only) - £770
Brook Road Bowls Club, Benfleet	Associated with Council facility	No Charge		Maximum stay 24 hours, no return within 2 hours Opening times: 7.00 a.m. to 7.00 p.m.	No Charge	No Charge
Brook Road Pavilion, Benfleet	Associated with Council facility	No Charge		Maximum stay 24 hours, no return within 2 hours Opening times: 7.00 a.m. to 7.00 p.m.	No Charge	No Charge
Canvey Heights, Canvey Island	Associated with Council facility	No Charge		Maximum stay 24 hours, no return within 2 hours	No Charge	No Charge
Council Offices/Runnymede Pool and Hall, Kiln Road, Thundersley	Associated with Council facility	No Charge		Maximum stay 24 hours, no return within 2 hours	No Charge	No Charge

Name of car park	Car Park Category	Existing Charging Period	Proposed Charging Period	Waiting Restrictions	Existing car park charge	Proposed car park charge
John H Burrows, main car park, Hadleigh	Associated with Council facility	No Charge		Maximum stay 24 hours, no return within 2 hours	No Charge	No Charge
John H Burrows, small car park, Hadleigh	Associated with Council facility	No Charge		Maximum stay 24 hours, no return within 2 hours	No Charge	No Charge
King Georges Playing Field, Canvey Island	Associated with Council facility	No Charge		Maximum stay 24 hours, no return within 2 hours	No Charge	No Charge
The Paddocks, Canvey Island	Associated with Council facility	No Charge		Maximum stay 24 hours, no return within 2 hours	No Charge	No Charge
Smallgains, Canvey Island	Associated with Council facility	No Charge		Maximum stay 24 hours, no return within 2 hours	No Charge	No Charge
Tewkes Hall, Canvey Island	Associated with Council facility	No Charge		Maximum stay 24 hours, no return within 2 hours	No Charge	No Charge
Waterside Farm Leisure Centre	Associated with Council facility	No Charge		Maximum stay 4 hours, no return within 2 hours	No Charge	No Charge
Woodside Park and Pavilion, Thundersley	Associated with Council facility	No Charge		Maximum stay 24 hours, no return within 2 hours	No Charge	No Charge

CABINET

16th January 2019

Subject: Development of Two 2 bedroomed homes in Windsor Gardens
Cabinet Members: Councillor Mrs B Egan - Housing and Council Homes, Councillor Stanley- Finance, Policy and Resources

1. Purpose of Report

- 1.1 To seek authority from Cabinet to develop two 2 bedroomed homes at a previous garage site in Windsor Gardens.**

2. Links to Council's priorities and objectives

- 2.1 The work is linked to the priority of Housing and Regeneration.**

3. Recommendations

- 3.1 That Cabinet agrees to the development of two 2 bedroomed homes in Windsor Gardens and instructs officers to undertake the necessary work as detailed in the business case action plan detailed in the Appendix A circulated under Part 2 of the agenda .**

4. Background

- 4.1 There is a significant shortage and need for two bedroomed properties for affordable housing in the Castle Point Area.**
- 4.2 The Housing Service has established a project team to examine available sites and look to develop more housing on suitable brownfield sites.**
- 4.3 The garage site at Windsor Gardens has been prioritised for development as it is a significant sized area, with the old garages removed and cleared. Planning permission has been applied for and obtained.**
- 4.4 It is considered that the construction of two new homes at this site will be conducive to the surrounding area, will improve its appearance and will provide urgently required affordable housing in the area.**

5. Report

- 5.1 A more detailed business case has been prepared and is attached as Appendix A under Part 2 of the agenda . There are a number of possible benefits:**

- Provision of new affordable housing that will utilise right to buy receipts
- Providing new affordable housing accommodation for which there is acute demand.
- Regenerate a garage area which was in poor condition.
- Improve the fabric of the surrounding area
- Obtaining rental income at affordable housing rent levels
- Reduce the risk of liability in relation to fly tipping and other anti-social behaviours

5.2 There are a number of risks and issues to consider, which are set out in the detail of the business case. A summary of these and actions undertaken are set out below:

- a) Risk of rights of way and claims of easement. However, these have been investigated by the project team and whilst there is a valid claim for an easement for one property, this can be fully accommodated and has been incorporated in the design of the development and communicated and agreed with the resident concerned.
- b) Risks of services (Drainage, Gas, Water, Electricity etc.) being difficult to connect. These have been fully investigated by the project team and arrangements are being undertaken with a number of statutory suppliers to ensure the services will be fully connected.
- c) Risk of neighbour concerns regarding the development and construction process. As a result of this risk the project team have identified the need for early communication with residents and a recent letter was sent to all nearby residents to inform them of the planned works. The Council will work with the contractor to ensure regular reports and communication to all surrounding residents and ward members as the project progresses.
- d) Funding of the procurement and the financial impact on the Housing Revenue Account. Costs are estimated to be as follows in the region of £434,000 and are detailed at Section 6 of the business case at Appendix A along with sources for funding the scheme.

6. Corporate Implications

a. Financial implications

There are significant financial implications which are summarised in this report and in the business case attached.

b. Legal implications

There are significant legal implications. These are summarised in the business case attached.

c. Human resources and equality

The development will be managed through an in-house project team and the appointment and procurement of a contractor.

There should be some positive equality implications as people in need will be allocated housing.

d. Timescale for implementation and risk factors

An update to Cabinet is expected in June.

7. Background Papers:

None

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