

CABINET MEETING

The CABINET will meet at the COUNCIL CHAMBER, CAUSEWAY HOUSE, BOCKING END, BRAINTREE, CM7 9HB, on Monday 24th September 2012 at 7:15pm

Membership

Portfolio	
Leader of the Council	Councillor G Butland (Chairman)
People and Participation	Councillor Mrs J Beavis Councillor P Tattersley
Performance and Efficiency	Councillor D L Bebb Councillor J T McKee
Place	Councillor Mrs W Schmitt Councillor R G S Mitchell
Planning and Property	Councillor Lady Newton Councillor J O'Reilly-Cicconi
Prosperity and Growth	Councillor C Siddall (Deputy Leader of the Council)

Invitees

Other invitees:- Group Leaders and the Chairman of the Overview and Scrutiny Committee.

For enquiries on this agenda please contact:

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This agenda is available on

www.braintree.gov.uk/Braintree/councildemocracy

PUBLIC INFORMATION

Question Time

Immediately after the Minutes of the previous meeting have been approved there will be a period of up to 30 minutes when members of the public can speak about Council business or other matters of local concern. Whilst members of the public can remain to observe the whole of the public part of the meeting, Councillors with a Disclosable Pecuniary Interest or other Pecuniary Interest must withdraw whilst the item of business in question is being considered.

Members of the public wishing to speak should contact the Member Services Officer on (01376) 552525 or email alastair.peace@braintree.gov.uk prior to the meeting. The Council's "Question Time" leaflet explains the procedure and copies of this may be obtained at the Council's office.

Health and Safety

Any persons attending meetings are requested to familiarise themselves with the nearest available fire exit, indicated by the fire evacuation signs. In the event of a continuous alarm sounding, you must evacuate the building immediately and follow all instructions provided by the fire evacuation officer who will identify him/herself. You will be assisted to the nearest designated assembly point until it is safe to return to the building

Mobile Phones

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Webcast

Please note that this meeting will be webcast.

INFORMATION FOR MEMBERS

Declarations of Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest:-

- To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest relating to items on the agenda having regard to paragraphs 6 to 10 [inclusive] of the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.
- Any member with a Disclosable Pecuniary Interest or other Pecuniary Interest to indicate in accordance with paragraphs 10.1(a)(i)&(ii) and 10.2(a)&(b) of the Code of Conduct. Such Member must not participate in any discussion of the matter in which they have declared a Disclosable Pecuniary Interest or other Pecuniary Interest or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

AGENDA

1. APOLOGIES FOR ABSENCE			
2. DECLARATIONS OF INTEREST			
3. PUBLIC QUESTION TIME			
4. MINUTES OF LAST MEETING			
(i) To approve as a correct record the minutes of the meeting held on 16 th July 2012 (Copy previously circulated).			
No	Title & Purpose of Report	Executive Summary	Additional Papers
5. Prosperity and Growth			
5a	Portas Pilot Update Presented by: Cllr C Siddall Officer Contact: Alison Jennings	Page 1	-----
6. People and Participation			
6a	Community Budgets Presented by: Cllr Mrs J Beavis Officer Contact: Allan Reid	Page 7	-----
6b	Community Right to Bid (Assets of Community Value) Presented by: Cllr Mrs J Beavis Officer Contact: Nicola Beach	Page 9	-----
6c	Community Right to Challenge Presented by: Cllr Mrs J Beavis Officer Contact: Nicola Beach	Page 20	-----
6d	Joint Agreement with Witham Town Council Presented by: Cllr Mrs J Beavis and Cllr Lady Newton Officer Contact: Nicola Beach	Page 25	-----
7. Performance and Efficiency			
7a	First Quarter Performance Management Report 2012/13 Presented by: Cllr D Bebb Officer Contact: Cherie Root	Page 29	Pages 1 to 22

8. BUSINESS IS ENCOURAGED AND THE LOCAL ECONOMY PROSPERS			
8a	Braintree District Strategic Tenancy Policy Presented by: Cllr Lady Newton Officer Contact: Tim Lucas	Page 31	Pages 23 to 52
8b	Housing Assets: Disposal of land adjacent to Hanover Square, Feering and Trinity House, Halstead. Presented by: Cllr Lady Newton Officer Contact: Tim Lucas	Page 37	-----
8c	New Housing Allocations Policy and Discharge of Homelessness Duty Policy Presented by: Cllr Lady Newton Officer Contact: Tim Lucas	Page 42	Pages 53 to 255
9. CABINET MEMBERS' UPDATES - to receive Cabinet Members' verbal reports on key issues within their portfolio			
10. REFERENCES FROM COUNCIL/COMMITTEES/GROUPS			
10a	Cabinet Response to the Recommendations from the Overview & Scrutiny Task & Finish Group's Report on Local Highway Liaison Presented by: Cllr R Mitchell Officer Contact: Paul Partridge	Page 53	-----
11. REPORTS/ DELEGATED DECISIONS/MINUTES TO BE NOTED			
11a	<u>Minutes from Cabinet Sub Groups</u> To receive the minutes of the following – Developing Democracy Group – 28 th August 2012	-----	Pages 256 to 258
11b	<u>Delegated Decisions</u> – to note recently made delegated decisions -	Page 57	-----
12. URGENT BUSINESS AUTHORISED BY THE CHAIRMAN			
13. EXCLUSION OF PUBLIC AND PRESS TO CONSIDER REPORTS IN PRIVATE SESSION – for reasons set out in Paragraph 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972			

At the time of publication there are no items for private session.

The last page of the public agenda is numbered 58.

Portas Pilot Update	Agenda No: 5a
Portfolio Area: Prosperity and Growth Corporate Priority: Promote and Improving Our Town Centres Report presented by: Cllr C Siddall Report prepared by: Alison Jennings	
Background Papers:	Public Report
Portas Pilot Bid 30 th June 2012	
Options:	Key Decision: No
Update on Portas Pilot Project	
Executive Summary <p>Last year Government commissioned Mary Portas to prepare an independent review on the state of our High Streets and Town Centres and how to reinvigorate them. The Portas Report was published in December 2011 and came up with 28 recommendations, two of those being to:</p> <ul style="list-style-type: none"> - Put in place a "Town Team": a visionary, strategic and strong operational management team for high streets - Run a number of High Street Pilots to test proof of concept <p>Portas Pilot Competition</p> <p>In February 2012 a competition was announced by Communities & Local Government (CLG) inviting applications to test out the Town Team concept and bid for funding to be a Portas Pilot. Braintree, Witham & Halstead all submitted independent bids which were unsuccessful in the first round but on 25th July 2012 Communities & Local Government (CLG) announced Braintree had been successful in becoming a Round 2 Portas Pilot, one of 15 in England to be awarded funding from a pot of £1.2 million in Round 2.</p> <p>What this means for Braintree</p> <p>The Braintree Bid was lead by BDC in conjunction with retailers, businesses, and business support providers and has secured £86,500 to develop the Braintree Town Team and deliver a series of projects to support new business, existing business and encourage people back in to our towns. This complements the Backing Our Towns Strategy thought delivering town centre initiatives alongside the physical regeneration work.</p> <p>The project was launched on the 7th September 2012 when nine new businesses</p>	

setup in market stalls in the Tesco Arches and retailers and businesses and the general public were encouraged to come along and find out more.

What this means for Halstead & Witham

We will share learning with Witham & Halstead and they also have the opportunity to access £10,000 of funding from CLG to deliver elements of their bids.

Implications for Backing Our Towns

The Backing our Towns programme continues to focus on our town centres with both physical town centre improvements and a series of projects to increase footfall and improve the commercial vitality of our towns.

Decision:

Cabinet are asked to approve:

Braintree District Council to act as the Accountable Body for the Portas Pilot funding of £86,500 (as a condition of the Portas Pilot bid) and to agree the delegation of decision making power to the Braintree Town Team to deliver the projects in the BID document once formal Town Team partnership structures are in place.

Purpose of Decision:

Braintree District Council in its role as the Accountable Body for this project must ensure that in accordance with the law and proper standards, public money is safeguarded and properly accounted for and used economically, efficiently and effectively, this includes the stewardship of public funds.

Once the formal Town Team structures are established, BDC will ensure that the project is co-ordinated by Alison Jennings, Regeneration Manager and the Internal Officer group and systems are in place to ensure that delivery and subsequent monitoring of the project is undertaken on a regular basis and complies with appropriate procedures including the reporting of progress, outputs and milestones as part of Braintree's participation in this national pilot.

Any Corporate implications in relation to the following should be explained in detail

Financial:	Securing £86,500 to deliver the programme of Portas projects means that additional resource is required in the Town Centre Economic development team due assist in delivering the projects including the wider Backing Our Towns programme
Legal:	N/A
Equalities/Diversity	Ensure information is available to all in a range of formats and via a range of mediums.
Customer Impact:	<ul style="list-style-type: none"> - Improves the prosperity of the towns - Supports the trading environment and our existing traders - Creates and sustains a more vibrant town centre for longer - Encourages new business startups - Encourages more people back in to our Towns
Environment and Climate Change:	Not Applicable
Consultation/Community Engagement:	Ongoing feedback and consultation with a range of stakeholders including Members, retailers, business support agencies and other Portas Pilots.
Risks:	<ul style="list-style-type: none"> • Reputational risk to the authority if the Town Team and the Portas Pilot projects are not delivered swiftly • The project being seen as a purely council led activity which has not secured support from retailers, the community and other agencies who can support the project delivery • Staff Resource implications due to the additional programme of work associated with securing this funding. • Delivering projects in to Witham and Halstead too quickly without sufficient resources and also without benefitting from the learning established through being a Portas Pilot and the access to experts who have been made available to us.
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1.0 Background

- 1.1 Over the last 12 months the Government has focussed attention on the need to support our ailing High Streets. They asked retail expert Mary Portas to prepare an independent review on the state of our High Streets and Town Centres and how to reinvigorate them for the future.
- 1.2 The Portas Report was published in December 2011 and came up with 28 recommendations, two of those being to:
- Put in place a “Town Team”: a visionary, strategic and strong operational management team for high streets
 - Run a number of High Street Pilots to test proof of concept

2.0 Portas Pilot Competition

- 2.1 In February 2012 a competition was announced by Communities & Local Government (CLG) inviting applications to test out the Town Team concept and bid for funding to be a Portas Pilot. Round 1 closed on 31st March 2012 when the first 12 pilots were announced. Braintree, Witham & Halstead all submitted independent bids which were unsuccessful. Subsequently a second round of funding was announced, the closing date being 30th June 2012.
- 2.2 On 25th July 2012 Communities & Local Government (CLG) announced Braintree had been successful in becoming a Round 2 Portas Pilot, one of 15 in England to be awarded funding from a pot of £1.2 million.

3.0 What this means for Braintree Town Centre

- 3.1 The Braintree Town Centre Bid was led by BDC in conjunction with retailers, businesses and business support providers and has secured £86,500 to develop further the Braintree Town Team and deliver a series of projects (**See Appendix A**) to support new business; support existing business through mentoring and support and business planning; and to encourage people back in to our towns through holding a series of events throughout the year.
- 3.2 The Bid complements the work which is being undertaken in the Backing our Towns Strategy.
- 3.3 The launch of the Portas Pilot was on the 7th September 2012 when 9 new businesses setup in market stalls in the Tesco Arches and retailers and businesses and the general public were encouraged to come along and find out more.
- 3.4 The first Town Team meeting will be held on 1st October 2012 when all those who have expressed an interest will be invited to come along and find out more about the Town Team. At this meeting nominations will be sought for the Town Team steering group (12 representatives from a range of organisations including Ward Members) and work streams established to deliver the projects.

4.0 What this means for Halstead & Witham Town Centres

4.1 Halstead & Witham have

- 4.2 We will be sharing learning from the Braintree experiences with Witham & Halstead. In the first instance both Town Teams have been advised that Communities & Local Government department are making £10,000 available to those teams which were not successful in order that they can deliver an element of their bid projects.
- 4.3 The Regeneration manager continues to assist Halstead & Witham in developing their Town's priorities as outlined in their Portas bid(s).

5.0 Implications for the Backing Our Towns Regeneration Programme

- 5.1 The projects outlined in this 4 year regeneration programme provide the framework for the future town centre improvements. This programme includes both physical improvements to the town centre and also targeted interventions to support our retailers and assist those who wish to start new businesses. The Portas Pilot funding enables us to supplement this programme and learn from experts in the field of retail to ensure that we benefit from this unique opportunity to be a national pilot for town centre innovation.

Appendix 1 – Portas Pilot Projects & Funding

Total Funding: **£86,500**

Priority 1: Growing Our Own Retailers

A package of projects to stimulate new business from market stall to shop

- Use our vacant arches to hatch business through subsidised incubator **market stalls and** training £12,000
- **RATA Retail apprenticeship scheme** for 2 young people with existing employers and independents. - £12,000
- **The Showcase startup shop** - secure lease on a shop unit which will be used for retail training and showcase for new entrepreneurs plus a delivery point for internet sales - £15,000
- **Concessions to assist new business to open in empty areas** - £10,000

Priority 2: Town Team Buddy

We will build strong relationships inspiring connectivity between the retailers, the community and the town's physical spaces. This will include: The Buddy System, 'Plugging Braintree', 'Plug Your Place' and targeted use of marketing to attach niche retailers

- Events & Marketing Resource £27,500

Priority 3: Keep current businesses booming

Town Team will offer focussed mentoring and capacity building to our existing retailers particularly independents commencing with a short intensive period of assessment then action which includes health checks, business development planning, merchandising, access to finance, legal health checks, use of social media and internet to support business growth. - £10,000

Community Budgets		Agenda No: 6a
Portfolio Area: People and Participation Corporate Priority: Supporting the vulnerable, safe and healthy living, flourishing communities Report presented by: Cllr Mrs J Beavis Report prepared by: Allan Reid		
Background Papers: Outline business cases (draft) Community budget prospectus		Public Report
Options: To support or not the development of a community budget approach across the public sector in Essex.		Key Decision: No
Executive Summary: The purpose of the presentation is to update the Cabinet on the progress made on community budgets, the business case for the actions proposed and the anticipated outcomes. Where appropriate Cabinet is requested to support the direction of travel of the community budget and continue to play an active role in future development.		
Decision: (i) To support the direction of travel of the community budget regarding a more integrated approach across the public services and agencies within Essex. (ii) To engage with the community budget process and provide support and assistance where benefits can be identified for the residents of the Braintree District. (iii) To provide a briefing to all Members on the final business cases submitted to government identifying the benefits to the residents of the Braintree District.		
Purpose of Decision: To understand the development of community budgets and continue to support the development of a more integrated approach to service delivery across all public sector agencies in Essex.		

Any Corporate implications in relation to the following should be explained in detail

Financial:	None at this stage.
Legal:	None at this stage.
Equalities/Diversity	Will be considered as part of the final business cases.
Customer Impact:	None at present.
Environment and Climate Change:	None at present.
Consultation/Community Engagement:	The Council is a consultee as well as a participant in the community budget process.
Risks:	No risks for this Council at the current stage of the community budget business case development.
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Community Right to Bid (Assets of Community Value)		Agenda No: 6b
Portfolio Area: People and Participation Corporate Priority: Encouraging Flourishing Communities Report presented by: Cllr Mrs J Beavis Report prepared by: Nicola Beach		
Background Papers: Report to Cabinet on 16 th July 2012 – Response to Localism Act and Localism Framework Localism Act 2011 Draft Assets of Community Value (England) Regulations 2012		Public Report
Options: To agree or not the process for dealing with the Community Right to Bid		Key Decision: NO
Executive Summary: This report sets out the duty placed on local authorities in the Localism Act 2011 to administer the Community Right to Bid (Assets of Community Value). The Community Right to Bid places a new duty on local authorities in England and Wales to maintain two lists; a list of assets of community value successfully nominated by the local community, and a list of assets that were nominated, but were unsuccessful in meeting the eligibility criteria of assets of community value. If land or buildings on the list of assets of community value come up for sale, the local community will be given six months to prepare a bid to try to buy the land or asset. This report sets out the procedure to be put into place to ensure that the Council complies with the new duty.		
Decision: Cabinet are asked to: Approve the procedure outlined in this report to ensure that the Council complies with the Community Right to Bid (Assets of Community Value).		

Purpose of Decision:

The Council has a duty under the Localism Act 2011 to set up and administer a list of assets of community value and a list of assets nominated by unsuccessful community nominations. This report seeks approval for the procedure to manage this new duty.

Any Corporate implications in relation to the following should be explained in detail

Financial:	<p>There are financial implications in resourcing the associated processes for the Community Right to Bid. The Government has made £8547 available as non-ring fenced grant in 2012-2013, 2013-2014, and 2014-2015 for New Burdens. There will be additional costs in providing compensation to owners of assets and quotations for insurance cover are currently being obtained. Additionally the Council must publicise the owners' intention to dispose of the land or property within a 6 week period to the wider community so the cost of advertising will be required. A further additional cost relates to the need for the Council to apply a land charge to listed assets. We are waiting for clarification on whether a specific land charge regulation relating to the Community Right to Bid will amend the usual fee level.</p> <p>It is difficult at this stage to quantify what the costs above might be, but as the scheme progresses this impact will be monitored.</p>
Legal:	<p>The Council has a duty to comply with statutory legislation and must therefore put appropriate mechanisms in place to do this. A draft Statutory Instrument has been laid before Parliament and will be enacted on 12 October 2012. Therefore the Council will need to have this procedure in place and the ability to receive nominations in October 2012.</p> <p>Some adjustments to the Community Right to Bid procedure may be required as a result of final guidance issued by Government. If this need arises, changes will be made by the Head of Governance, in consultation with the relevant Cabinet member.</p>
Equalities/Diversity	<p>There may be an impact for some protected groups identified in the Equality Act 2010 with regard to the Community Right to Bid process. This is because some protected groups might be disproportionately affected by the sale and possible closure of assets of community value which are included on the relevant list, or conversely by their transfer. This impact will need to be monitored.</p>

Customer Impact:	The Community Right to Bid process must be effectively administered to ensure a positive customer impact for both community groups and land and property owners. The process of asset transfer may in itself improve the social, economic or environmental well-being of the area, and thereby have a beneficial customer impact.
Environment and Climate Change:	The process of listing assets of community value, and of the transfer of assets may in itself bring about social, economic and environmental benefits to the community by continued or increased financial or social investment.
Consultation/Community Engagement:	The Council will need to publicise the list making process, the lists themselves, and notification from landowners to sell their listed properties. Some community engagement will be carried out on behalf of the Council by the Rural Community Council of Essex. This will aim to engage community groups, neighbourhood forums and town and parish councils. Effective use will be made of the Council and RCCE websites. Additional time sensitive advertising will need to be placed in printed media. The Council will also need to engage with landowners and agents. Where land crosses or lies on district boundaries the Council may also need to engage with neighbouring councils, and through them, their community groups and parish and town councils.
Risks:	<p>a) The Council is inundated with nominations; <i>This risk can be managed by the RCCE engaging with community groups</i></p> <p>b) The Council is inundated with requests for reviews and appeals from landowners if their assets are listed; <i>This risk can be managed by the Council engaging with landowners and relevant agents</i></p> <p>c) Accusations of favouritism or preferential treatment by the Council to some groups; <i>This risk can be minimised and/or removed by transparency in decision making, clear publication within the lists of decisions made and the reasons for these</i></p> <p>d) Local communities have unrealistic expectations of bidding to buy assets and of their ability to raise the necessary funds; <i>Again, this risk can be minimised by appropriate engagement by the RCCE on the Council's behalf to provide advice to community groups and direction to available grant making bodies.</i></p>
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1.0 Purpose of the Report

- 1.1 The purpose of the report is for Cabinet to approve the procedure to be put in place to comply with the Community Right to Bid, introduced by the Localism Act 2011.
- 1.2 A draft Statutory Instrument has been laid before Parliament and will be enacted on 12 October 2012. The Council needs to make adequate preparations for the enactment, establishing relevant processes and procedures, appropriate governance arrangements, and identify and manage the likely risks arising from the new duty.

2.0 Background

- 2.1 The 'Community Right to Bid' places a new duty on local authorities in England and Wales to "maintain a list of land in its area that is land of community value" as nominated by the local community. If land or buildings on this list comes up for sale the local community will be given six months to prepare a bid to try to buy the land or asset.
- 2.2 The Council must also maintain a list of assets identified in *unsuccessful* nominations.
- 2.3 The provisions of the community right to bid:
 - i) **Does not restrict** who the owner of a listed asset can sell their property to, nor at what price;
 - ii) **Does not confer a right of first refusal** to community interest groups, nor does it enable a community group to trigger disposal of a site;
 - iii) **Does not place any restriction on what an owner can do with their property**, once listed, if it remains in their ownership. Planning policy determines permitted uses for sites, but the authority could decide that listing as an asset of community value is a material consideration if an application for change of use is submitted.
- 2.4 It will therefore be important to ensure that appropriate and accurate information regarding the new Community Right is communicated to parishes and community groups. The Community Right to Bid might best be viewed as an important tool for parish and community groups who have a clear strategic use or purpose for a community asset, probably backed with an outline business plan, and by sufficient resources to purchase the asset or the ability to raise this in a prompt manner.

3.0 Defining an "asset of community value"

- 3.1 The Act defines assets in terms of the purpose to which they are being, or have been used, not in terms of the nature of the asset itself, ie not in terms of historical or architectural merit, or location or rarity value. The asset must be within the local authority area, but there is a duty on local authorities to cooperate on sites that cross local authority boundaries. All ownership is covered, whether in public or private ownership, and whether there is a single owner or multiple owners.

3.2 A building or piece of land is an asset of community value if it is at least partly within the local authority's area, its main use has recently been used to "further the social wellbeing or social interest of the local community" and could do so in the future, and is defined regardless of the nature and number of owners.

3.3 The table below provides a simple overview of what constitutes an 'asset of community value'.

Is a building or other land an "asset of community value"?					
Nature of use	Long Past	Recent Past	Present	Future	Covered by the Act
The main use of the land or building furthers the social wellbeing or social interests of the local community at the present time AND it is realistic to think that this can continue into the near future (even if the type of social use of benefit might change)			YES	YES	YES
The main use of the land or building furthered the social wellbeing or social interests of the local community in the recent past AND it is realistic to think that this could happen again in the next five years (even if the type of social use or benefit might change)		YES		YES	YES
The main use of the land or building furthered the social wellbeing or social interests of the local community some years ago but is not presently in use for a social purpose	YES				NO
The land or building has not recently been, and is not currently, in use for a primarily social purpose					NO
The land or building has been empty or derelict for many years and remains so today					NO
Source: Asset Transfer Unit					

3.4 Residential properties are excluded from listing, unless it is integral to an asset of community value, such as living accommodation within a pub or caretaker's flat within a community centre. Statutory undertakers (as defined in s263 of the Town and Country Planning Act 1990) will be excluded from listing. These include organisations such as utilities, transport providers, the Civil Aviation Authority and the Post Office.

3.5 Assets of community value could include land or buildings where the main purpose is as follows:

The provision of public services directly to the public for the purposes of education, health and wellbeing or community safety, including:

- Nurseries and schools
- Children's centres
- Health centres, surgeries and hospitals
- Day care centres, residential care homes

Sport, recreation and culture, including:

- Parks and open green spaces
- Sports and leisure centres

- Libraries
- Theatres
- Museums or heritage sites

Community services, including:

- Community centres
- Youth centres
- Public toilets

Local democracy, including town and civic halls

- 3.6 Also included is any economic use which provides an important local social benefit which would no longer be easily available if that service should cease. In these cases it is the social value of the business that counts, not just the nature of the business. This could include for example, village shops and pubs.

4.0 Nominations

- 4.1 Only the local community can nominate an asset for inclusion in the list. Nominations must come from:
- A body designated as a neighbourhood forum (under Section 61F of the Town and Country Planning Act 1990)
 - A parish (or Town) council
 - An unincorporated body
 - Whose members include at least 21 individuals, and
 - Which does not distribute any surplus it makes to its members
 - A charity
 - A company limited by guarantee which does not distribute any surplus it makes to its members
 - An industrial and provident society which does not distribute any surplus it makes to its members; or
 - A community interest company
- 4.2 A public or local authority may not be a voluntary or community body, but this restriction does not apply to a parish council.
- 4.3 Bodies other than a parish council must have a local connection with land in the Council's area. This is deemed to be the case if the body's activities are wholly or partly concerned with the local authority's area or with a neighbouring authority's area.
- 4.4 In the case of an unincorporated body, companies limited by guarantee, or an industrial and provident society, any surplus made must be wholly or partly applied for the benefit of the local authority's area, or the benefit of a neighbouring authority's area. Unincorporated bodies must also have at least 21 local members who are registered at an address in the local authority's area, or a neighbouring authority's area as a local government elector.
- 4.5 A parish council is deemed to have a local connection with land in another parish council's area if any parts of their boundaries are shared. A parish council is also deemed to have a local connection with land in a local authority's area if the parish is within that local authority area, or any part of

the boundary of the parish's area is also part of the boundary of the local authority's area.

4.6 A nomination must include:

- a) a description of the nominated land including its proposed boundaries
- b) a statement of all the information which the nominator has with regard to:
 - i) the names of the current occupants of the land, and
 - ii) the names and current or last known addresses of all those holding a freehold or leasehold estate in the land
- c) the nominator's reasons for thinking that the responsible authority should conclude that the land is of community value; and
- d) evidence that the nominator is eligible to make a community nomination

5.0 List making

5.1 Every nomination must be considered and all nominations which fit the definition of an asset of community value must be included on the list.

5.2 The local authority must give written notice of inclusion on the list to:

- The person who nominated the asset
- The owner (the freeholder or a qualifying leaseholder if there is one, or if there are sub-leaseholders, then the leaseholder who is most distant from the freeholder)
- Any lawful occupier

[The owner is defined as the freeholder, or, if there is a lease of at least 25 years, the leaseholder]

5.3 The list must be available for "free inspection" and the authority must "provide a free copy of the list on request". The Council must also define the format and content of the lists and how to best make these publicly available, and set out a simple procedure covering entries to the lists, modification of entries and removal. An outline process map is attached at Appendix A.

6.0 Land charges

6.1 If land is included in the Council's list of assets of community value then:

- a) inclusion in the list is a local land charge, and
- b) the Council is the originating authority for the purposes of the Local Land Charges Act 1975.

6.2 This also requires that the Council must remove the restriction as soon as practicable after removing the land from the list of assets of community value.

7.0 Sales and moratorium periods

7.1 If a local authority receives notice from an owner that they intend to dispose of an asset of community value (disposal means either the sale of the property or the granting of a lease of at least 25 years duration), they must publicise this fact by:

- Amending the published list with the relevant information – that a notice has been received, and the dates of the interim and full moratorium periods and the protected period
- Notifying in writing, the body that made the initial nomination
- Publicising the matter locally

- 7.2 The local community has a 6 week *interim* moratorium period (from the date the initial notice is received from the landowner) to express interest in writing to the local authority that “they wish to be treated as a potential bidder for the land”. There is no required format for this expression of interest. Submitting an expression of interest does not commit the group to making a bid. Whereas only certain groups can nominate an asset, **any** community group can express an interest at this point and can trigger a moratorium period.
- 7.3 If no expression of interest is received, the landowner is free to dispose of their land. If an expression of interest is received, the authority must notify the landowner and provide them with information about the expression of interest and who submitted it.
- 7.4 If an expression of interest is received by the local authority, the landowner may not dispose of their land for six months (from the date that the initial notice was received by the authority from the landowner). This is the 6 month *full* moratorium period which gives the local community time to prepare a bid if they wish to do so. They are not obliged to prepare or to submit a bid.
- 7.5 If a landowner receives a bid they are not obliged to accept it. The landowner and any eligible community interest group may come to a mutual agreement and complete the sale before the six month period is complete if they so wish.
- 7.6 There is an 18 month protected period (from the date that the initial notice is received from the landowner) during which the landowner is protected from further attempts to block the sale of the property.

8.0 Exemptions from the moratorium process

- 8.1 Some types of disposal are exempt from the moratorium process *even* if the asset is listed. The Act and Regulations list the following exemptions:
- Disposal through the gift of an asset
 - Disposal of an asset containing a business which uses the asset and which is a ‘going concern’ (eg a shop or public house still in operation)
 - Disposal within a family or partnership or between trustees of a trust or between companies in a group
 - Disposals in the execution of a will or arising from various legal proceedings including separation agreements between spouses or civil partners
 - Disposal of an asset that is part of a larger estate, part of which is not listed, but where the whole estate is owned by the same person and is a single lot of land
 - Disposals made under any statutory provision relating to incapacity including physical or mental impairment
 - Disposals from one NHS body to another
 - Disposals for ongoing educational provision
 - Disposals between connected companies

- Disposals as a result of bankruptcy or insolvency

9.0 Compensation

- 9.1 The Act allows private property owners who believe that they have incurred losses as a result of complying with the procedures, to apply for compensation from the local authority. The definition is:

“That the person making the claim has, at a time when the person was owner of the land, and the land was listed, incurred loss or expense in relation to the land which would be likely not to have been incurred if the land had not been listed.”

- 9.2 The draft regulations suggest that the following types of claim may be made:

- a) a claim arising from any period of delay in entering into a binding agreement to sell the land which is wholly caused
 - i) by relevant disposals of the land being prohibited by section 95(1) of the Act during any part of the relevant six weeks that is on or after the date on which the responsible authority receives notification under section 95(2) of the Act in relation to the land, or
 - ii) in a case where the prohibition continues during the six months beginning with that date, by relevant disposals of the land being prohibited during any part of the relevant six months that is on or after that date; and
- b) a claim for reasonable legal expenses incurred in a successful appeal to the First Tier Tribunal against the responsible authority’s decision:
 - i) to list the land,
 - ii) to refuse to pay compensation, or
 - iii) with regard to the amount of compensation offered or paid.

- 9.3 Claims for compensation must be made in writing to the Council before the end of thirteen weeks after the loss or expense was incurred or finished being incurred. The owner must state the amount of compensation sought for each part of the claim; and supporting evidence must be provided.

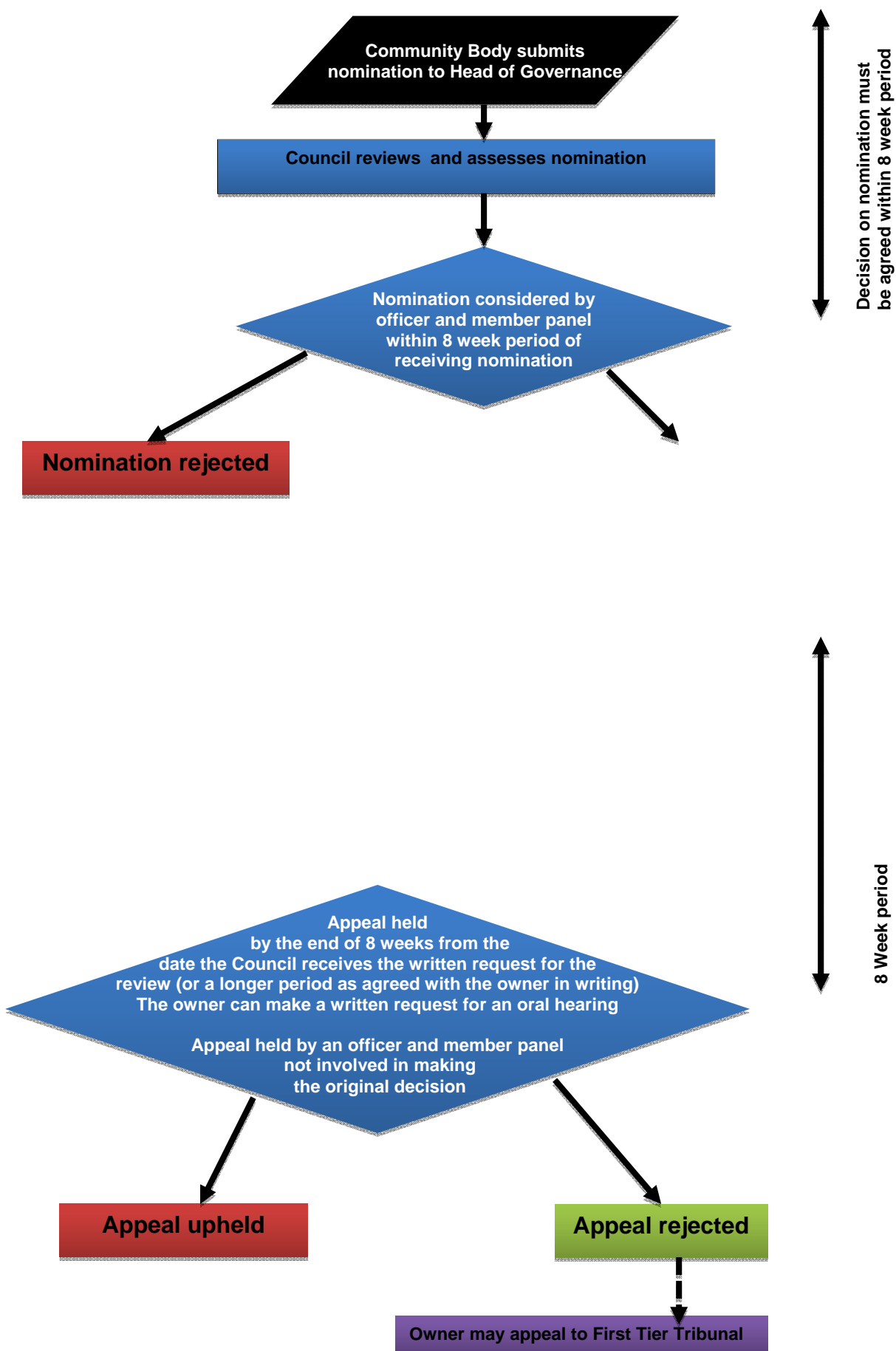
- 9.4 Draft regulations state that public bodies and departments mainly supported by public funds and subject to public audit under the Audit Commission Act 1998 and the National Audit Act 1983 are not entitled to compensation.

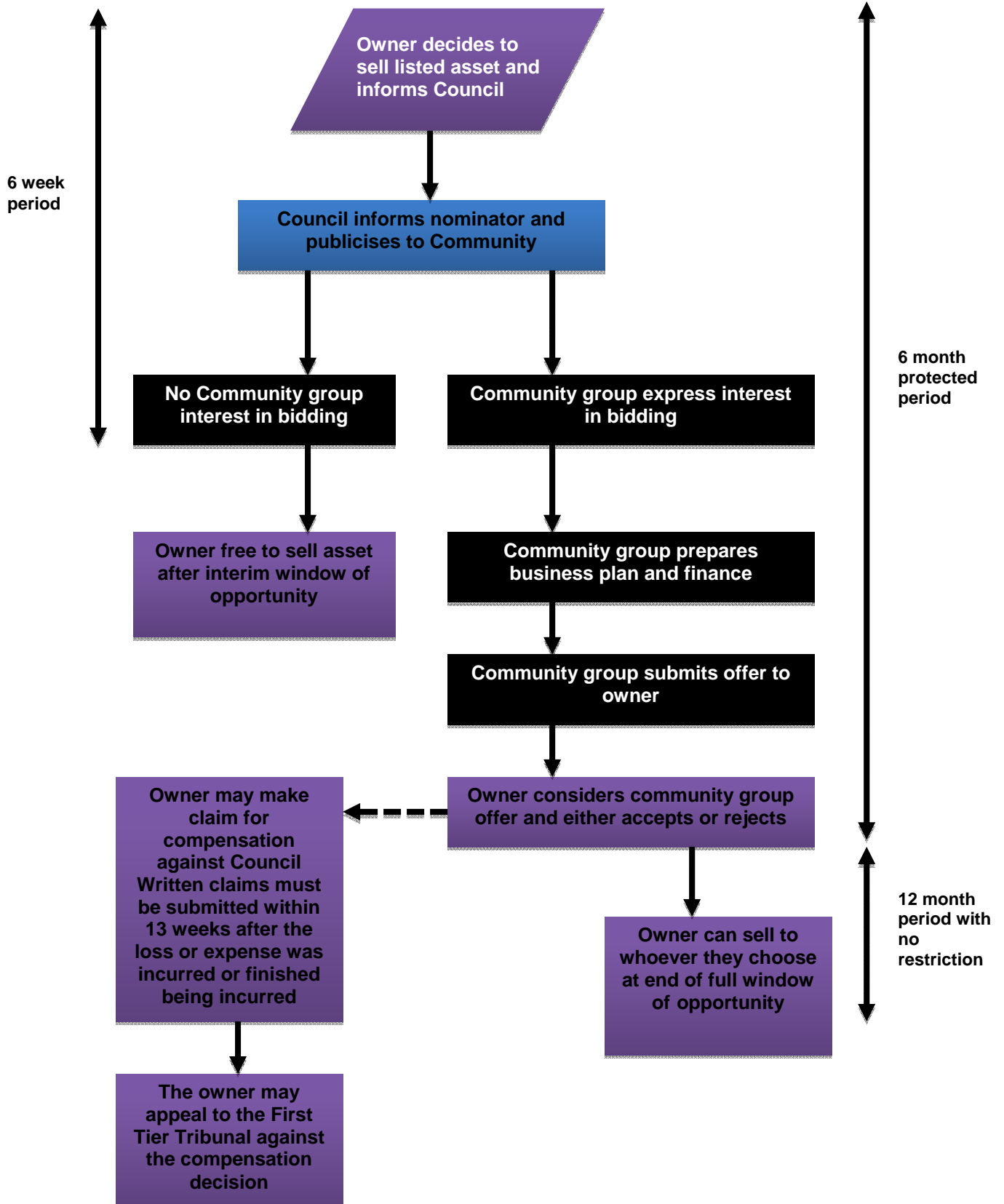
- 9.5 Where the Council has carried out a compensation review, the person who requested the review may then appeal to the First Tier Tribunal against the decision.

10.0 Corporate Procedure

- 10.1 The outline procedure is shown in Appendix A below, subject to any amendment introduced by final Government guidance. The timelines given are set out in the regulations. Corporate responsibility for the Community Right to Bid will sit with the Governance Section and community bodies will be invited to submit nominations to the Head of Governance. Nominations will be considered by an officer and member panel, with a separate officer and member panel (who were not involved in the original decision) to operate as an appeals panel.

APPENDIX A: PROCEDURE FOR COMMUNITY RIGHT TO BID





Community Right to Challenge		Agenda No: 6c
Portfolio Area: People and Participation Corporate Priority: Encouraging Flourishing Communities Provide value for money Report presented by: Cllr Mrs Joanne Beavis Report prepared by: Nicola Beach		
Background Papers: Report to Cabinet on 16 th July 2012 – Response to Localism Act and Localism Framework Localism Act 2011 Community Right to Challenge Regulations Community Right to Challenge Statutory Guidance		Public Report:
Options: To approve or not the process for dealing with the Community Right to Challenge.		Key Decision: No
Executive Summary: This report sets out the duty placed on local authorities in the Localism Act 2011 to administer the Community Right to Challenge. The Community Right to Challenge allows relevant bodies to express an interest (EOI) in running Council services and places a duty on the Council to consider those expressions of interest and, where they are accepted, run a tender process for the future delivery of that service. This report sets out the procedure to be put into place to ensure that the Council complies with this new duty. It is proposed that the Council sets a timescale of 1 st April to 31 st May each year to receive expressions of interest from relevant bodies (as defined in the report below). This new duty also needs to be put in the context of the work the Council has already done to take forward the localism agenda with the transfer of some assets and services already completed. Examples of this include the transfer of community halls to local community arrangements across the district and the transfer of the management of the health walks to Braintree District Voluntary Services Association. The Council is also taking forward a joint agreement with Witham Town Council to explore the transfer of services and assets to local management arrangements.		

Decision:

Cabinet are asked to:

Approve the procedure to be put in place to ensure that the Council complies with the Community Right to Challenge, including setting the timescale for expressions of interest as 1st April to 31st May each year.

Purpose of Decision:

The Council has a duty under the Localism Act 2011 to consider expressions of interest to run its services under the Community Right to Challenge. The Council has to adopt a process including specifying a period of time when expressions of interest may be made. Failure to specify a timescale for expressions of interest would mean the Council would have to accept and consider expressions of interest at any time of year.

Corporate implications**Financial:**

The financial consequences of managing the Community Right to Challenge (CRtC), including publicising the process and evaluating Expressions of Interest (EOIs), will have to be met primarily from within existing staff resources, although CLG has paid a small additional grant (£8,547) in respect of the new burdens associated with CRtC.

If an Expression of Interest (EOI) is accepted, there will be additional costs associated with running a procurement exercise. These will vary according to the nature and complexity of the service, but could be considerable.

Legal:

The District Council has a statutory duty to consider all EOIs received under the CRtC and can set a timeframe in which to receive these so the process is more manageable rather than having an open scheme.

The Council in considering expressions of interest must have due regard to existing legislation that provides the powers and regulations for delivering services and ensure employment law legislation is followed in the contracting of any services.

The Council will need to take account of and take appropriate measures, where potential employees' or Members' conflicts of interest may occur. For example, where two employees within an existing service launch an employee bid there may be conflict with the remaining employees and implications for access to information.

Some adjustments to the Community Right to Challenge process may be required as a result of final guidance issued by Government. If this need arises, changes will be made by the Head of Governance, in consultation with the

	relevant Cabinet member.
Equalities/Diversity	<p>No significant impact has been identified for any of the protected groups identified in the Equality Act 2010 with regard to the CRtC process; this accords with the impact assessment undertaken by Government prior to the draft legislation being considered by parliament.</p> <p>The evaluation of all EOIs (and any tenders) will need to include an equality impact assessment.</p>
Customer Impact:	<p>The customer impact of each EOI (and any tenders) will need to be assessed on a case by case basis.</p> <p>Using the full powers of the legislation the Council may be able to improve community outcomes by ensuring that any external provider that may successfully be awarded a contract to run a council service improves the social, economic or environmental well-being of the area.</p>
Environment and Climate Change:	EOI are expected to demonstrate how the proposal might offer social, economic or environmental benefits to the community and take into account social considerations, over and above the provision of the service.
Consultation/Community Engagement:	<p>Proposals in expressions of interest should outline how outcomes will meet the needs of service users. Bodies may do this, for example, by reference to existing needs assessments or by conducting their own surveys.</p> <p>Depending on the nature of the service being 'challenged', there may be a need for consultation with the community and customers.</p>
Risks:	<p>If parts of a service are contracted out, this may lead to fragmentation of services and higher costs for the remaining in-house services.</p> <p>Corporately, the Council may not be able to provide value for money and overhead costs increase.</p> <p>Client costs could increase as there will be more contracts to manage of varying size and complexity.</p> <p>The Council could incur high procurement costs triggered by one or more EOI.</p> <p>Possible reputation risks if the standards of service carried out by a third party are lower than that currently delivered by the Council; residents may perceive a worse service associated with the Council.</p>
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1. Introduction

- 1.1 The Localism Act 2011 provides the legislative framework for the Community Right to Challenge (CRtC). The CRtC allows for relevant bodies to express an interest in running a local authority service. Local authorities must consider that expression of interest and if acceptable under the legislation, must run a full procurement process for the future running of that service.
- 1.2 The Government published Regulations at the end of April 2012 that were approved by Parliament in June 2012, with the CRtC enacted on 27 June 2012. Subsequent to enactment the Government published the final statutory guidance requiring local authorities to ensure the processes they adopt in managing expressions of interest under the CRtC are in accordance with legislation.

2. Relevant Bodies

- 2.1 The relevant bodies eligible to submit an expression of interest to deliver Council services are defined as:
 - a voluntary or community body;
 - a body of persons or a trust which is established for charitable purposes only;
 - a parish council;
 - two or more employees of the local authority; or
 - any other person or body specified by the Secretary of State by regulations.
- 2.2 Under the current legislation it is not possible for district councils to bid to run the services of any other local authority.
- 2.3 Statutory guidance states that voluntary or community bodies must be not for profit and must be incorporated with limited liability.
- 2.4 Whilst only community organisations can submit an expression of interest, that organisation can do so in partnership with other bodies which could fall outside the permitted list. In terms of joint ventures, an incorporated joint venture would have to meet the definition of a relevant body. However in a contractual joint venture, where each party keeps their separate identity, only one organisation needs to meet the definition of a relevant body.

3. Relevant Services

- 3.1 A relevant service is defined as a service provided by or on behalf of a relevant authority in the exercise of its functions. For example:

Planning

The Town and Country Planning Act 1990 gives powers to local planning authorities to grant or refuse planning permission where a planning application is made to the authority. The right does not allow for the function of determining planning applications to be provided by a third party. Therefore the function of taking the planning decision is excluded from the CRtC. The delivery of planning services, for example the processing of a planning application (not the decision), may be carried out by the local authority itself, or

by a third party on behalf of the authority. Therefore this service would be included in the CRtC.

- 3.2 The statutory guidance also clarifies that local authority services delegated to a town or parish council or already carried out in partnership with another local authority remain subject to the CRtC.
- 3.3 The Government excludes a very limited number of services from the CRtC. These relate to services predominantly delivered by County or Unitary authorities in conjunction with the National Health Service. Therefore unless there is a legislative requirement for the Council to deliver a function which specifically cannot be carried out by a third party *all* Braintree District Council services are potentially open to the CRtC.

4. Braintree District Council Corporate Procedure

- 4.1 The time period for Expressions of Interest to run Braintree District Council services will be set at **1st April to 31st May each year**. This ensures that the Council can consider Expressions of Interest within the context of the annual service and financial planning process.
- 4.2 The Council has a duty to accept and consider an expression of interest from a relevant body which is in writing and provides the information that legislation requires.
- 4.3 Where the Council already has contracts in place to provide a service to a third party or a third party is contracted to carry out a service on the Council's behalf, the Council will publish the Contracts Register via the website and include individual timescales for expressions of interest in line with the end of the current contract.
- 4.4 If an expression of interest is accepted the Council has a duty to run a full procurement exercise, with due regard to European Union regulations and the Government Procurement Agreement. The procurement exercise would be open to **any** potential bidders (not just relevant bodies) from the private, public or third sector and be operated in accordance with the Council's own financial and contract procedure rules.

Joint Agreement with Witham Town Council		Agenda No: 6d
Portfolio Areas: People and Participation Planning and Property Corporate Priority: Encourage Flourishing Communities Report presented by: Cllr Mrs Joanne Beavis Cllr Lady Newton Report prepared by: Nicola Beach		
Background Papers: Report to Cabinet on 16 th July 2012 – Response to Localism Act and Localism Framework		Public Report
Options: To agree the outline basis for the Joint Agreement with Witham Town Council and the proposed transfer of two pieces of land to Town Council management.		Key Decision: Yes
Executive Summary: On the 16 th July 2012, Cabinet gave approval to proceed with establishing a joint agreement with Witham Town Council (WTC) to explore the transfer of services and assets to local management. Work has commenced on this basis and also includes the transfer to the management of WTC two pieces of land currently owned and managed by Braintree District Council (BDC). These are the War Memorial Gardens in Newland Street and land adjacent to ASDA, off Highfields Road. Details are shown in Annex A. The transfer would be through leasehold with a budget transfer commensurate with the current cost of maintaining this land, estimated to be £2711.00 annually for both sites. The funding arrangements are still under negotiation, but the intention would be to agree a single, lump sum payment to WTC. The broad principle for BDC for any transfer of asset or service to local management is that it should be at the minimum cost neutral (or generates a saving) to the Council. The intention would be to complete the leases and the operational transfer by the end of December 2012, subject to agreeing the funding arrangements between both authorities. At a recent meeting on 28 th August 2012, the Town Council considered the issue of taking forward the joint agreement and the transfer of the two pieces of land. This transfer proposal was supported by WTC. Future governance arrangements for the joint agreement were also discussed, including the proposal to establish a Joint Board of Town and District Councillors. At the meeting, it was resolved to initially set up a joint working group of District Councillors and Witham Town Councillors to carry		

out an assessment of the services currently being delivered in Witham by both councils and identify which is more suitable for local management for the benefit of Witham residents. This will now be progressed.

Decision:

Cabinet are asked to:

- a) Approve the transfer of the two pieces of land to Witham Town Council on a leasehold basis with the aim of completing the leases by end of December 2012 (subject to agreeing the funding arrangements);
- b) Agree to the negotiation of a single, lump sum payment to Witham Town Council to manage this land.

Purpose of Decision:

To seek support to progress the development of the joint agreement with Witham Town Council and transfer of land.

Any Corporate implications in relation to the following should be explained in detail

Financial:

The transfer of any service or asset from BDC to local management should be at the minimum cost neutral to the Council. Within any transfer arrangement it must be demonstrated that best value is achieved for residents. Based on assessments done, BDC spends approximately £2711.00 per annum on regular maintenance of the two pieces of land, with approximately £5000 of additional works required between now and 2015 for the War Memorial Gardens, e.g. resurfacing of footpaths, painting of railings etc. WTC estimates that they can maintain these areas to the current standard for the same amount spent by BDC. Due to the small number of staff hours involved there would be no transfer of staff or equipment to Witham Town Council.

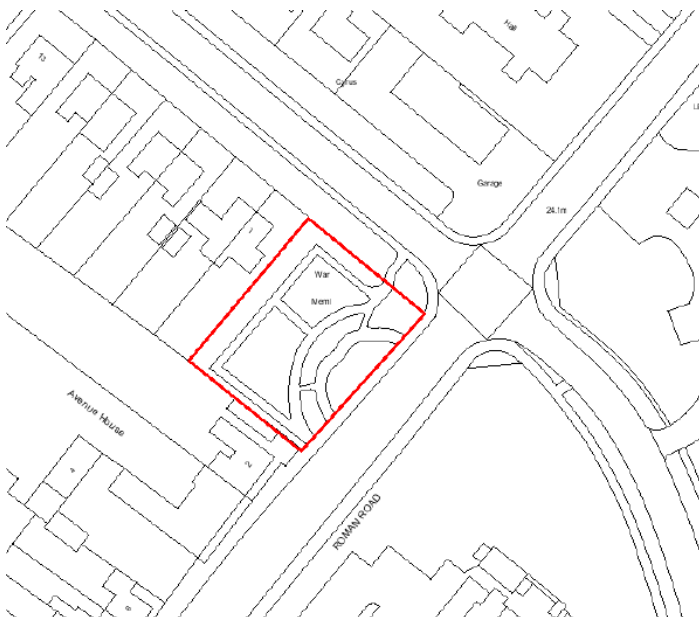
The aim would be to complete the transfer by the end of December 2012 subject to agreeing the funding arrangements between both authorities. The funding arrangements are under negotiation with the intention of agreeing a single, lump sum payment. The Cabinet Member is delegated to agree the final funding arrangements as long as costs can be met from within current budgets.

Legal:	<p>The proposed method of transfer would be on a leasehold basis with a minimum length of 25 years (this would allow WTC to apply for external funding). Asset Management has advised the need for covenants on the land to preserve its use as a public open space and prevent resale for development purposes.</p> <p>WTC currently leases the land that comprises the Witham River Walk from Braintree District Council on a 30 year lease from 2005. Asset Management have advised that it would be possible to add the land adjacent to ASDA to the existing lease if Witham Town Council were in agreement.</p> <p>Witham War Memorial Gardens would require a new lease, due to different features of the land and the additional responsibilities around the War Memorial and its maintenance.</p> <p>In the longer term, Witham Town Council has expressed an interest in taking over the freehold of the assets which could be explored at a later date when a broader joint agreement is more established.</p> <p>Under Article 16 of the constitution, the final terms and conditions of the leases would be agreed by the Corporate Director, in consultation with the Head of Governance. The intention would be to complete the leases by the end of December 2012.</p>
Equalities/Diversity	There are no equality and diversity implications as the land will remain public space with no change of use.
Customer Impact:	This work will strengthen future working relationships with Witham Town Council by giving control of local assets back to local residents.
Environment and Climate Change:	None
Consultation/Community Engagement:	The Town Council has been engaged and consulted with on this matter.
Risks:	<p>The Council's working relationship with Witham Town Council could deteriorate if the joint agreement does not proceed, starting with the transfer of this land.</p> <p>Possible reputation risk if the standards of maintenance carried out by WTC are lower to that currently delivered by BDC; residents may perceive a worse service associated with BDC.</p>
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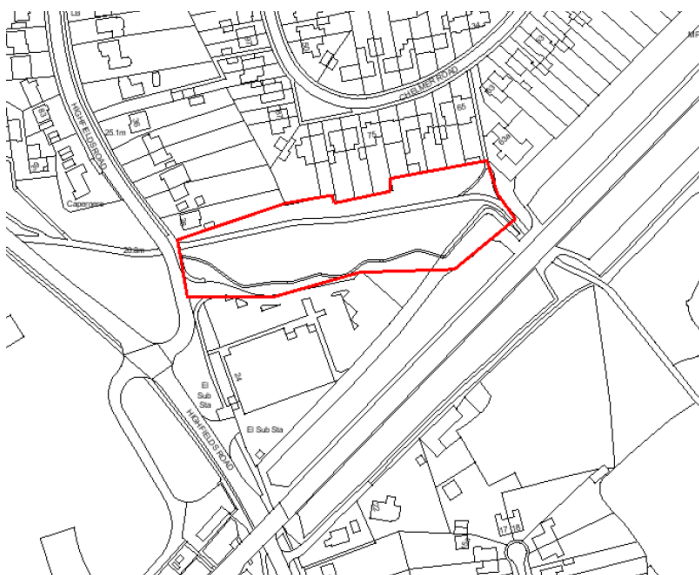
Annex A

The land being considered for transfer includes:

- Witham War Memorial Gardens in Newland Street (approximate size at widest points 38m x 30m, approximate area 1081 m²)



- Land adjacent to ASDA off Highfields Road, leading to the River Walk (approximate size at widest points 170m x 50m, approximate area 4616 m²)



First Quarter Performance Management Report 2012/13		Agenda No: 7a
Portfolio Area: Performance and Efficiency Corporate Priority: Business Efficiency Report presented by: Cllr David Bebb Report prepared by: Cherie Root – Head of Business Solutions		
Background Papers:		Public Report
First Quarter Performance Management Report April to June 2012		
Options:		Key Decision: No
To endorse the report		
<p>The purpose of the report is to summarise the performance of the Council at the end of the first quarter (April to June 2012) in relation to the publication of ‘Our plans for the District 2012/2013’ which sets out our key activities and measures used to check our performance for the forthcoming year and along with the Corporate Strategy 2012-2016 sets out the priorities we are working towards. This is the first quarter of the year reporting against our new Corporate Strategy and the new five priorities – Place, People, Prosperity, Performance and Partnerships.</p> <p><i>In summary at the end of the first quarter: Projects</i></p> <ul style="list-style-type: none"> • There are 39 projects in total of which <ul style="list-style-type: none"> ○ 37 projects are on track ○ 2 projects are completed <p><i>In summary at the end of the first quarter :Performance Indicators</i></p> <ul style="list-style-type: none"> • There are 13 performance indicators reported on of which: <ul style="list-style-type: none"> ○ 11 performance indicators have achieved target ○ 1 performance indicators has missed target by more than 5% ○ 1 performance indicator is for information purposes only and does not have any target set <p><i>Of all the indicators:</i></p> <ul style="list-style-type: none"> • 9 have improved on their performance compared to last year • 1 has neither improved or deteriorated since last year • 3 are new performance indicators and cannot be compared to how they performed last year • No performance indicators have deteriorated since last year <p>Overall, the performance for the first quarter of 2012/13 is very good and represents how the Council remains committed to delivering high quality services.</p> <p><i>Financial Performance</i></p> <p>The current projected outturn is a net spend of £15.734 million, compared with a budget</p>		

of £16.159 million, giving a projected under spend of £425,710.

The projected under spend of £425,710 equates to -2.6%, and is a combination of expenditure variances of minus £319,900, and net over achievement of income of plus £105,810.

For a detailed explanation of the financial performance, please refer to page 16 onwards of the full report.

Decision:

To note and endorse the report

Purpose of Decision:

To inform the Cabinet of the performance of the Council

Corporate implications [should be explained in detail]

Financial:	See page 16 of the report
Legal:	N/A
Equalities/Diversity	N/A
Customer Impact:	N/A
Environment and Climate Change:	N/A
Consultation/Community Engagement:	N/A
Risks:	N/A
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Braintree District Strategic Tenancy Policy		Agenda No: 8a
Portfolio Area: Planning and Property Corporate Priority: Housing and transport meet local needs Report presented by: Cllr Lady Newton Report prepared by: Tim Lucas		
Background Papers: Localism Act 2011 Part 7, Chapter 2, Section 150		Public Report
Options: To approve, amend or reject the Tenancy Strategy (Appendix A)		Key Decision: Yes
Executive Summary: <p>The Localism Act 2011 requires Councils to adopt a Tenancy Strategy. The key elements are set out below:</p> <p><i>“A local housing authority in England must prepare and publish a strategy (a “tenancy strategy”) setting out the matters to which the registered providers of social housing for its district are to have regard in formulating policies relating to—</i></p> <ul style="list-style-type: none"> a) <i>the kinds of tenancies they grant,</i> b) <i>the circumstances in which they will grant a tenancy of a particular kind,</i> c) <i>where they grant tenancies for a term certain, the lengths of the terms, and</i> d) <i>the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.”</i> <p>Our proposed Strategy is attached as Appendix A. This is an entirely new area of Strategy for us and is therefore a completely new document.</p> <p>The real significance of the Strategy may not be felt for some time. Under the Localism Act, new types of fixed-term tenancy are established that housing associations can use if they choose to. In most cases, we expect such tenancies to last for 5 years. In 5 years time, we will see what happens when some of these tenancies are not renewed and some people who historically would have had security of tenure start to look for alternative housing.</p> <p>The Strategy shares its common principles with the Greater Haven Gateway group of</p>		

Districts and Boroughs but the text explaining how we intend to implement it has been changed to respond to consultation, particularly with Greenfields. The draft strategy has deliberately been left with modifications identified to show what amendments have been made locally in response to consultation.

We believe this is a reasonable and sensible approach to our first Tenancy Strategy and provides the greatest consistency for our partner housing associations. As far as possible, it dovetails with Greenfields' intended approach for its Tenancy Policy.

Decision:

Members are asked to:

Approve the Tenancy Strategy for publication.

Purpose of Decision:

To make sure we comply with the Localism Act 2011 in publishing our Tenancy Strategy

Any Corporate implications in relation to the following should be explained in detail	
Financial:	There are no direct financial implications arising from the Strategy. Seeking to limit the rent level charged to tenants may be beneficial for tenants but may also limit development opportunities for larger family homes in the district unless additional funding is made available to subsidise the cost of such development.
Legal:	The publication of the document is required to meet the requirements of the Localism Act 2011. There are no other specific legal issues with its publication or arising from the content. Housing associations are expected to 'have regard' to the Strategy but are not bound by it.
Equalities/Diversity	An Equalities Impact Assessment has been prepared and will be published online. There are no significant adverse impacts of the Strategy.
Customer Impact:	Direct impact on local people is limited and the purpose of the Strategy is to minimise the potential negative impacts of the changes made to the law on tenancies.
Environment and Climate Change:	No impact
Consultation/Community Engagement:	The draft Strategy was sent to all Registered Providers with stock in the district. All the Providers were invited to a consultation event and were asked to complete an on-line survey. This meets the consultation requirements set out in the legislation.
Risks:	<p>The consultation revealed the extent to which the relationship between Councils and Registered Providers can be strained when their interests differ. Certain elements of the strategy will need careful management if we are to maintain our positive relationship with local providers. In particular, we are seeking to limit the most negative potential impacts of the changes to the law and that may risk our relationship with some providers and limit the development opportunities locally. In particular, there are risks associated with:</p> <ul style="list-style-type: none"> • changes to security of tenure • the higher cost of some new tenancies • how and where income from higher rents is spent by providers <p>These risks would still apply if we did not adopt a strategy at all.</p>
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1. Process for writing and consulting on the strategy

- 1.1. Officers from Braintree and 8 other councils agreed to work together to produce a 'framework' for the strategy that we could all agree. In the course of the discussions, it became clear that we could set out a series of 'principles' that helped define clearly what we should achieve. This allowed for each Local Authority to make changes to the text and context elements of the document while maintaining the basic core principles.
- 1.2. The steering group also included representatives from 6 registered providers with stock in several districts across the local authorities.
- 1.3. Members should note that the legislation consistently refers to the term 'Registered Providers' rather than 'Housing Associations' or 'Registered Social Landlords'. We have therefore adopted the terminology throughout the Strategy and this report.
- 1.4. *As well as setting out what should be included in a Tenancy Strategy, The Localism Act also includes the following statement on consultation:*
- 1.5. *"Before adopting a tenancy strategy, or making a modification to it reflecting a major change of policy, the authority must—
(a) send a copy of the draft strategy, or proposed modification, to every private registered provider of social housing for its district, and
(b) give the private registered provider a reasonable opportunity to comment on those proposals".*
- 1.6. Following the agreement of the steering group, the draft was circulated to all the registered providers with stock in the sub-region. Early comments led to changes before the final draft was circulated.
- 1.7. The comments were collected by the Greater Haven Gateway sub-regional co-ordinator from an on-line survey seeking comments on all the proposed principles in the strategy. The survey was available and promoted for 12 weeks, closing 24th August. In addition, on 16th July, a workshop was held in Colchester, with invitations to all the registered providers in the sub-region.

2. Issues arising from the consultation

- 2.1. Immediately the first draft was circulated to Registered Providers (RPs) feedback revealed real concerns with the detail in the draft policy. Some of the concerns arise from fundamental disagreement with the role of Local Authorities in setting and implementing strategy that affects independent social housing providers.
- 2.2. The Localism Act requires us to establish a strategy which is specific about the types of tenancies we want to see used locally and in what circumstances alternatives can be considered. All RPs are expected to adopt a 'Tenancy Policy' and are expected to 'have regard' to the Tenancy Strategy of the LA.
- 2.3. What is clear from the consultation is that housing associations are fearful that LAs will set strategies that will conflict with what the HCA want them to do and will seek to exercise a level of control they consider unreasonable and untenable. RPs developing in several LA areas potentially face the problem of

conflicting Strategies. This was one reason we chose to work together with other LAs.

- 2.4. The LA perspective is that we are now required to set out these matters and will do so in a way that best meets what we perceive to be the interest of people locally. This may differ from the business interests of RPs. We are also aware that RPs are required to 'have regard' to our strategy but ultimately, we have no means to exercise control.
- 2.5. One particular area that has triggered discussion is around the use and re-use of resources. RPs that have negotiated a development programme with the HCA are able to increase the rent on properties when they are re-let, to up to 80% of market rent, **provided** the resources arising are ring-fenced for development. Development can be anywhere in the operating area of the RP. This means that providers can increase rents in Braintree but invest the resulting receipts elsewhere. For larger RPs, this could be in another part of the country.
- 2.6. In addition, the units that raise the most (the larger family homes) are most likely to be 'converted' to higher rents. These are often units where people are already likely to have to deal with benefit restrictions and we are concerned about the impact of higher rents on households needing these units in particular. Members should note that, over time, all the larger units could move to a much higher rent level as a result of the policy change. Clearly, we want to identify that both the cost of the rent and where the resources are invested are topics in which we believe we have an interest. It is understandable that RPs are concerned that this may conflict with HCA guidance.

3. Our response to the feedback from Registered Providers (RPs)

- 3.1. The significance of the Tenancy Strategy varies between stock-holding and non stock-holding LAs. All Districts locally have one stock-holder that is significantly larger than all the others. Where the largest landlord is the Local Authority, it will be bound by its own tenancy strategy. The LA can set out what it considers to be in the best interest for its provider and strategic roles but the Localism Act states that as a landlord, it must abide by its Tenancy Strategy.
- 3.2. Stock transfer authorities all have one large provider that should 'have regard' to a local strategy but the provider is not bound by it.
- 3.3. In Braintree, by far our largest and most important provider is Greenfields. It is therefore vital that we work with Greenfields to develop a Strategy that, as far as we can, meets the needs of both organisations.
- 3.4. We have therefore concentrated on responding to Greenfields comments on a point-by-point basis. The attached matrix (Appendix B) shows Greenfields' initial response to the consultation and our subsequent response to them. This follows very close contacts between us to consider the document. We have also been involved in Greenfields' consultation regarding its Tenancy Policy.
- 3.5. Members can see from the responses that there has been considerable movement to accommodate some of Greenfields' points and in particular to

clarify the scope of the various principles and how we expect to see them applied. The final draft policy identifies and highlights the passages that have been added or amended as a result. Most of these changes will be highlighted in the published version of the document to show where it differs from the sub-regional template. This is to make sure that RPs familiar with the sub-regional template can see where there are variations locally.

Housing Assets: Disposal of land adjacent to Hanover Square, Feering and Trinity House, Halstead.	Agenda No: 8b								
<table> <tr> <td>Portfolio Area:</td><td>Planning and Property</td></tr> <tr> <td>Corporate Priority:</td><td>Housing and transport meet local needs</td></tr> <tr> <td>Report presented by:</td><td>Cllr Lady Newton</td></tr> <tr> <td>Report prepared by:</td><td>Tim Lucas</td></tr> </table>		Portfolio Area:	Planning and Property	Corporate Priority:	Housing and transport meet local needs	Report presented by:	Cllr Lady Newton	Report prepared by:	Tim Lucas
Portfolio Area:	Planning and Property								
Corporate Priority:	Housing and transport meet local needs								
Report presented by:	Cllr Lady Newton								
Report prepared by:	Tim Lucas								
Background Papers: Cabinet Report 14 th Feb 2011, item 8a. (plus subsequent report to Full Council, 23 rd Feb 2011)	Public Report								
Options: To agree, amend or reject the proposal to dispose of land at Feering and Trinity House, Halstead.	Key Decision: Disposal of land in Feering (only) is key decision								
Executive Summary: Land adjacent to Hanover Square, Feering (key decision) <p>At the time of the stock transfer to Greenfields, a parcel of land of 0.06 hectares adjacent to Hanover Square, Feering was retained by the Council. There had been a challenge to the Council's ownership of the land, which was subsequently settled in the Council's favour. The land in question is identified in the attached map and photograph.</p> <p>Feering has no village 'envelope' but the site complies with the Council's rural exception site policy and although the plot could not be developed for mainstream housing, its use for affordable housing for local people would be appropriate. Any application would be subject to normal scrutiny through the planning process.</p> <p>Because of the above planning status of the land, it has negligible open market value.</p> <p>It is proposed to transfer the land to Greenfields for development of new rented homes. It is likely that the site is large enough for 2 units. Neighbouring houses and the access road are owned by Greenfields and services for the new homes would be provided across Greenfields' owned land.</p> <p>Under the Council's rural exception site policy, first and all subsequent lettings of any homes there would be covered by a local lettings policy. Highest priority would be given to people with a strong connection to Feering, followed by people with connection to neighbouring villages. A Section 106 agreement will be undertaken in collaboration the Parish Council ready for a planning application.</p>									

At the time of writing, there are 8 applicants on our Housing Register with an address in Feering.

The land value to Greenfields will depend on the specification of the homes and the level of rent to be charged. Greenfields will develop the scheme without grant from either the CHIP Fund or Braintree DC and it is proposed that officers negotiate with Greenfields to secure the best balance between affordability and house specification. It is quite likely that the land will be transferred for nil value.

Disposal of Trinity House

Work has now begun on a block of flats behind the Council-owned property, 19-21 Bocking End.

At the Cabinet meeting held on the 14 February 2011 it was recommended that the land at the rear of 19 to 21 Bocking End, Braintree was transferred to a housing association in order to re-provide for the supported affordable housing scheme, currently based at Trinity House, Halstead. It was stated that the new scheme would permit closure and sale of Trinity House. The recommendation was approved by the Council on the 23 February 2011 (Minute 59 ii).

The land was passed to Colne Housing earlier this year and the new development is now on site. The flats have now been named 'Pavilion Court' and are expected to be completed in Spring 2013. Colne will lease the flats to NACRO and the Council's lease of Trinity House to NACRO will end once the existing tenants have re-located. It is now proposed to dispose of Trinity House.

Trinity House is a large grade II * listed house and no alternative use as an affordable housing scheme is identified for this property.

Officers recommend that we declare Trinity House, Halstead surplus to requirements and authorise the Head of Asset Management to dispose of the property on terms to be agreed.

Officers also recommend that the net sale proceeds from the sale of Trinity House are added to the council's affordable housing capital programme. It is expected that a finance report later this year will ask members to consider whether this is in addition to the existing capital programme or used to replace the resources already allocated.

Decision:

Members are asked to agree:

- to the disposal of land adjacent to Hanover Square, Feering to Greenfields Community Housing for provision of new rented affordable housing.

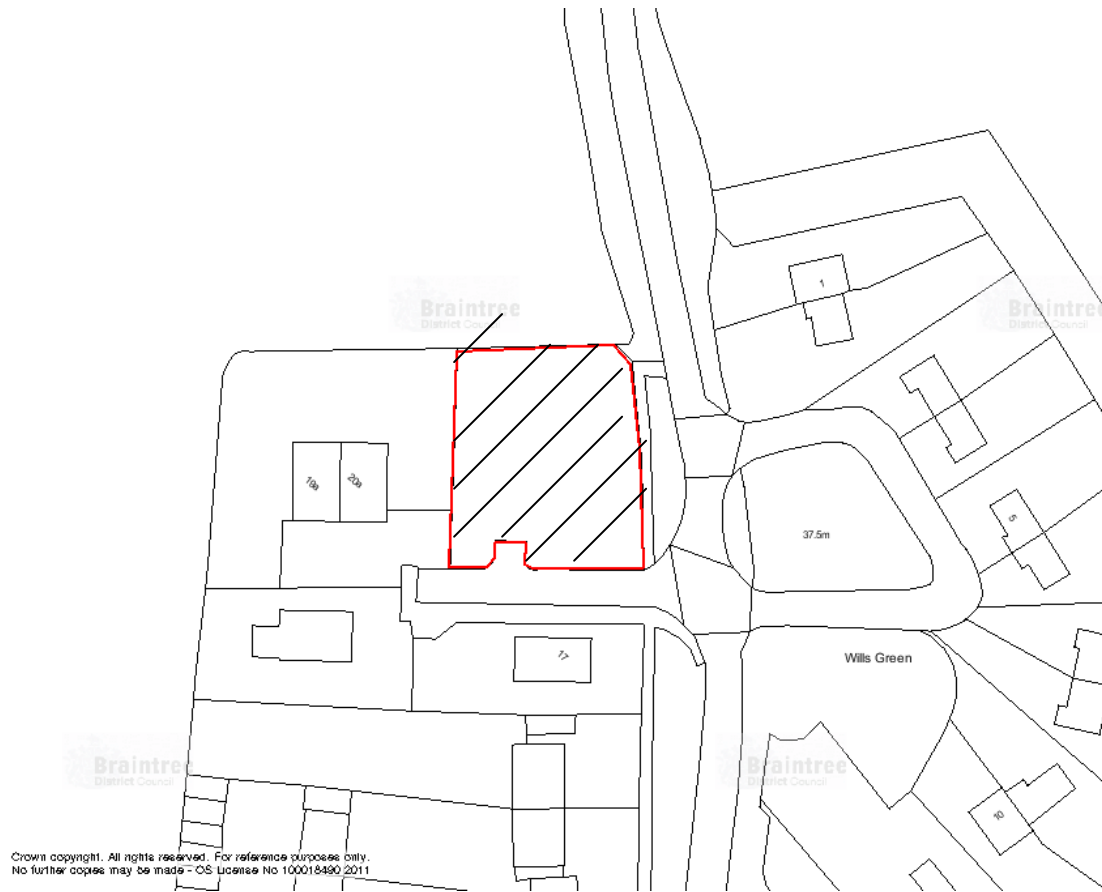
Members are asked to recommend to the Council:

- to declare Trinity House, Halstead surplus to requirements and authorise the Head of Asset Management to dispose of the property on the open market once the existing lease to NACRO has been ended; *and*
- that the net sale proceeds from the sale of Trinity House are added to the Council's affordable housing programme.

Purpose of Decision:
To make best use of the Council's land and property

Any Corporate implications in relation to the following should be explained in detail	
Financial:	<p>The value of land at Feering is limited because it's only development use within our planning policy is for the provision of affordable housing. Currently, the Council is responsible for maintenance of a piece of land that has no designated use. Passing the land to Greenfields therefore reduces our liability for maintenance while providing new homes for people in the village.</p> <p>The open market disposal of Trinity House is likely to provide a significant yield to the Council. It was last valued a couple of years ago at £350,000.</p> <p>The recommendation to allocate the net proceeds to the affordable housing programme does not have an immediate impact as members will be asked later to decide whether this is a net addition to the programme or a replacement of capital already allocated.</p>
Legal:	<p>The land at Feering will be restricted to use for affordable housing, to be let to people with a local connection to the village. The legal agreement will form part of the planning permission. Applicants will be selected from our Housing Register.</p> <p>There are no specific legal issues with the sale of Trinity House and (now that we have no Housing Revenue Account) the Council is free to use the receipts as it chooses.</p>
Equalities/Diversity	No specific issues.
Customer Impact:	No direct issues as a result of the sales but we will work with NACRO to plan the closure of Trinity House with least possible short-term negative impact to the residents.
Environment and Climate Change:	None at this stage
Consultation/Community Engagement:	None at this stage

Risks:	<p>In relation to the land at Feering, we have already discussed with Greenfields that we would like a time limit on the development being undertaken and it will be a condition of the transfer to Greenfields that a scheme is developed in reasonable time from the land transfer.</p> <p>Any risks associated with the sale of Trinity House are likely to be associated with the building being empty once residents move out. We will try to minimise this risk by starting the marketing well before the residents move out.</p>
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New Housing Allocations Policy and Discharge of Homelessness Duty Policy		Agenda No: 8c
Portfolio Area: Planning and Property Corporate Priority: Housing and transport meet local needs Report presented by: Cllr Lady Newton Report prepared by: Tim Lucas		
Background Papers: Localism Act 2011: Part 7, Chapter 1: Allocation & Homelessness Allocation of accommodation: guidance for local housing authorities in England (CLG publication June 2012) Homelessness (Suitability of Accommodation) (England) Order 2012 (CLG Consultation document)		Public Report
Options: 1. To approve (or not) the revised Allocations Policy (Appendix A) 2. To approve (or not) the principle to discharge an accepted homelessness duty into the private sector where appropriate and resources are available to do so (Appendix B)		Key Decision: Yes
Executive Summary: The two housing policies – the allocations policy and the policy for discharging homelessness duties – are separate but complementary. All Local Housing Authorities are likely to be in the process of revising both policies in light of new legislation and we have therefore decided to bring both new policies together in one report. Changes to the allocations policy are outlined first in the attached report, followed by details of our recommendation on the use of new powers to discharge the homelessness duty into the private sector. The main changes recommended to our Allocations Policy are: <ul style="list-style-type: none"> ➤ That we change the age at which we consider children can share a room to bring our policy in line with the way Housing Benefit rules will apply in the social sector from April 2013; ➤ That we give the same priority to overcrowded private tenants as we do to social tenants; 		

- That we automatically give a higher priority to people who have served in the armed forces if they need to move; *and*
- That we give a higher priority to foster carers looking to move to more suitable accommodation if they are supported by the relevant agencies.

Other changes are set out in the report but are mainly relatively technical and either:

- clarify the wording of policy we were already applying; *or*
- take out potential inconsistencies in the way we implement policy.

The review found no compelling case was made to:

- stop registering people in the lowest band; *or*
- prioritise people in work.

Both these latter potential changes have been given a high profile in the press.

The Localism Act 2011 changed the way we can discharge our homelessness duty, allowing us to choose to discharge our homelessness duty to suitable private sector accommodation if it is available. The report recommends that we agree to use the new power.

The Councils who operate the 'Gateway to Homechoice' system of lettings recognised that it made sense to adopt consistent procedures and have drafted a policy to make sure we use the new power consistently and fairly.

Decision:

- To approve the revised Allocations Policy (Appendix A).
- To approve the principle to discharge an accepted homelessness duty into the private sector where appropriate and resources are available to do so *and*
- That we adopt a new policy for how we discharge our homelessness duty. (Appendix B).

Purpose of Decision:

- To ensure our Allocations Policy remains up-to-date, relevant, and contributes to the Council's ambitions for social housing and tackling homelessness.
- To ensure that we can use the new power available to discharge an accepted homelessness duty into the private sector and do so in a way that is consistent with other neighbouring Councils.
- The review of the Allocations Policy was necessary to consider the effect of legislative changes arising from the Localism Act 2011, welfare reform changes due to take place April 2013 and Code of Guidance – Allocation of Accommodation published in 2012.

Any Corporate implications in relation to the following should be explained in detail

Financial:	<p>No specific financial implications although it is hoped that these changes will generate better outcomes and some may avoid expenditure, for example, allowing local authorities to ensure homeless households are housed quickly may avoid some expenditure on temporary accommodation</p>
Legal:	<p>The policy changes are designed specifically to make sure we comply with recent legal changes introduced in the Localism Act, the Welfare Reform Act and new Statutory Instruments on allocations and additional preference to members of the armed forces. We also comply with the new Code of Guidance for Allocations.</p> <p>The implementation of Homelessness legislation is very often the subject of legal challenge, particularly in London where housing pressures are most acute. We hope to have reduced the likelihood of legal challenge by working together with other LAs and adopting a specific, separate policy on how we discharge our homelessness duty.</p>
Equalities/Diversity	<p>A revised equality impact assessment has been completed on both the revised allocations policy and the policy for discharge of homelessness. Both will be made available on our web-site. The assessment did not show any particular areas of concern or that any communities were unfairly disadvantaged under the existing scheme or allocations policy.</p>
Customer Impact:	<p>We estimate that around 100 housing register applicants will be adversely affected by changes to our assessment of overcrowding to bring us into line with the Welfare Reform Act. Most of these households have been informed in writing of the changes and their impact on their application. The majority are households who will not be regarded as overcrowded until their children are older.</p> <p>Around 35 households will gain from the changes, as we will in the future treat overcrowding in the private rented sector with a higher priority, bringing the treatment of private tenants into line with social sector tenants.</p> <p>Discharge into the private sector is likely to be used in a minority of homelessness cases. Some households will undoubtedly consider it an inferior offer to a social housing tenancy. However, it is likely to allow quicker resolution for some and may help some people to stay or move to an area with little social housing stock.</p> <p>In the longer term, both policies should result in better use of the existing social housing stock.</p>

Environment and Climate Change:	No impact.
Consultation/Community Engagement:	<p>The Allocations Policy was the subject of a 2-stage consultation, with extensive consultation before the policy was drafted and then further stakeholder involvement once the draft was published. A briefing on the first stage of consultation (which was published with questionnaires and used for presentations to stakeholders) is set out in Appendix D.</p> <p>Agencies across the sub-region were consulted about the proposals in respect of the discharge of the homelessness duty: in the Braintree District this included the CAB, Registered Providers and One Support.</p>
Risks:	<p>The main risks are:</p> <ul style="list-style-type: none"> • The possibility of legal challenge (see 'Legal' implications box above) • The changes to the allocations policy introduce unforeseen issues that force us to revise the policy again.
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1. Allocations Policy Changes

- 1.1. Choice Based Lettings (CBL) is the way we allocate homes to people seeking housing from a Council or from a Registered Provider (RP). Rather than the Council attempting to match an applicant to an empty property, choice-based lettings requires people seeking housing to bid for empty homes that are advertised by the landlord. The person with the highest priority who has bid for a given property will generally be made the offer.
- 1.2. Gateway to Homechoice was launched in May 2009 covering seven of the Greater Haven Gateway authorities (Babergh, Braintree, Colchester, Ipswich, Maldon, Mid-Suffolk, and Suffolk Coastal). Waveney District Council joined the scheme on 13 January 2011. Working in partnership with the other authorities makes it more cost effective to the Council and gives a wider range of choice to those seeking housing.
- 1.3. The scheme has one allocations policy which governs which properties applicants are eligible for. It also includes the relative priority applicants are awarded to reflect their housing need under the policy.
- 1.4. It is a legal requirement for all Local Housing Authorities to have an allocation policy by which social housing is let. Some categories of applicants are given preference under legislation (called 'reasonable preference' categories). These include those with medical or welfare needs to move, homeless households and those living in overcrowded or unsuitable conditions. Other categories of applicants can then be given preference to reflect local circumstances, for example under the existing policy preference is given to existing tenants wanting to move to a smaller property.
- 1.5. Controls are also in place to ensure that no more than a certain proportion of homes in one district can be allocated to households migrating inwards from other areas. Regular reviews are carried out to monitor both inward and outward migration. In the last 12 months, there has been a small net migration of people out of the Braintree District, suggesting that local households are getting the maximum benefit of mobility with no net loss in terms of the number of homes being available.
- 1.6. The original policy was devised through consultation with members, applicants, tenants and partner organisations during 2008. The policy was reviewed in 2011 and minor changes were approved. The recommended revisions outlined in this report include quite significant changes and the consultation that was undertaken considered quite radical alternatives.
- 1.7. Members should note that if there are policy areas they would like us to explore further, the Gateway to Homechoice scheme is committed to keep areas of policy under review and to respond to the changing political and social environment.
- 1.8. Various national changes affecting the policy for allocation of housing have prompted a need to review and make amendment to the Gateway to Homechoice Policy. Particular areas for review are:
 - Placing restrictions on who is able to register;
 - Defining non-statutory levels for over-crowding and therefore eligibility for various sizes of property;
 - Responding to issues of under-occupation;

- Possibility of increasing the range of those who are seen as priority groups for housing; and
- The extent to which choice is offered to existing and new tenants in social housing.

2. Allocations Policy review process

2.1. Gateway to Homechoice established a steering group with officers from each LA with a remit to:

- Analyse trends and data from the housing register and lets
- Establish the key areas of consideration for the review
- Carry out first stage consultation
- Produce review recommendations
- Complete a 12 week second stage consultation on these review recommendations
- Obtain approval for the revised policy from each of the Local Authority partners
- Implement appropriate changes, including changes to the Gateway to Homechoice IT system.
- New policy operational 1 November 12

3. Summary of main Allocation Policy changes

3.1. Full details of recommended changes are in Appendix C. The main suggested amendments are:

- Definition of a household – This is to be made clearer, less ambiguous and consistent with the definition used as part of the homelessness legislation.
- Deliberate changes to households – For example where two families choose to move into one home and become overcrowded as a result, or act in a deliberate way that makes their housing situation worse; in these cases priority will not be awarded.
- Homeless households where prevention band has been given – where the original time agreed for the enhanced priority band has expired, priority will be reviewed to see if there is still a risk of homelessness. Where applicants have failed to make reasonable bids for homes the local authority will make bids on their behalf and if an offer is unreasonably refused their priority will be removed.
- Bedroom entitlement – Our existing policy is more generous on bedroom entitlement than the Housing Benefit rules for private rented accommodation. The recommendation is to raise the age at which children can be expected to share a bedroom and make it more consistent with benefit regulations. This would reduce the number currently overcrowded in terms of existing policy. The proposed policy would also give the same priority to those in private rented accommodation as is currently given to those in social rented properties, recognising the future changes to homelessness legislation and making the policy fairer.
- Additional priority for certain groups – The proposal is that this is extended in line with emerging legal changes for ex-service personnel and also for those who have been approved as foster parents but not to be so wide as to cover more subjective groups such as volunteers, those who are working and good tenants.
- Restricting those who have recently moved into social housing – The existing policy enables new tenants to apply for alternate housing as soon

as they have been moved. The new proposal means that those who are housed through Gateway would not be able to apply for another move for 12 months (unless there are extreme circumstances). This would deter applicants from making inappropriate choices and give fairer access to others.

4. Changes considered but rejected

4.1. During the consultation on our policy, we explored other areas of policy enabled by the Localism Act 2011 and subsequent Code of Guidance but the consultation recommended no change to our policy.

4.2. Particular high profile potential policy changes that were considered but rejected were:

- Moves to stop registering people with no housing need; and
- Changes to give additional priority to people who are 'contributing' to the community by working, volunteering or in training.

4.3. Under previous legislation, Housing Registers had to be 'open' and anyone could join if they wished. The new Act gives us the power to close the register if we choose to. Supporters of restricting registers suggest that this:

- reduces the bureaucratic burden of operating a register; *and*
- stops people thinking they have a chance of being housed when in reality they don't.

4.4. Our consultation with housing providers, statutory and voluntary agencies, applicants and members did not support closing the register to people who do not have an assessed need to move. The main logic for this is based on an assessment of the impact for both the LA and the applicant:

For the LA:

- At some stage, whether by assessment of an application form, by telephone conversation or face-to-face interview, an assessment has to be made of whether someone should be given a priority on the Housing Register.
- In our scheme, most applicants complete their applications online. The applications are checked by a member of staff who confirms the priority 'Band' awarded.
- This part of the operation would have to be undertaken anyway in order to assess whether or not people have a need.
- For us, not registering people who have no need does not save any time in the overall process.
- We expect that Councils who choose not to register will be subject to numerous appeals against the decision (so will have to keep records of the application they took) and considerable time could be wasted defending the decision not to allow someone to register.

For the applicant:

- We occasionally house people from the bottom Band (E). Low demand properties (such as sheltered housing) and homes on rural exception sites can go to people in our bottom band. Between May 2009 (when the scheme began) and March 2012, we housed 96 people from Band E. These are people who would not be registered at all if we changed the system.
- People's circumstances change or they provide additional information (for example, about a health condition) that elevates their band. We can

easily register people into Band E and deal with changes of circumstances as they arise. This is quicker, clearer and more certain for the applicant.

- We publish information about the shortage of affordable housing and are very clear directly with applicants as they apply about what they can expect. This information is improving all the time as we get a bigger 'sample' from which to draw information. Our joint Housing Needs and Land study we undertook with Greenfields is producing information that is very accurate and in a very clear format.

4.5. A range of stakeholders considered the benefits of rewarding 'community contribution'. There was no significant support to do so. Some of the reasons given were:

- The law requires us to give priority to people who in law are identified as having 'reasonable preference'. In our system, these are people in Bands A to C. Priority awards for 'community contribution' would only be to those people; those that already have an identified housing problem. It therefore does not specifically give priority to people solely because of their community contribution.
- In order not to discriminate against those who are unable to work because of illness or disability, we would have to award similar priority to this group. 15% of our current lets are to people who are of working age but unable to work. This dilutes the 'reward' element of the policy.
- Any such scheme would have to give priority after a certain period – for example to someone who had been working or volunteering for 3 months. In a challenging jobs market, people accept short-term, temporary work and may struggle to find work if they are made redundant. In these circumstances, establishing a truly fair system becomes complex. The complexity risks reducing the effectiveness of the 'reward'.
- Such a scheme would require constant monitoring of people's situations as they go in and out of work and their priority changes accordingly. There is a significant increase in the bureaucracy associated with managing and monitoring such a system to make sure people are prioritised correctly.
- It was common at consultation events for delegates to question whether the allocation of social housing is the right mechanism for rewarding community contribution.

5. Implementation of the Allocations Policy

5.1. All of the Local Authorities involved are in the process of seeking member approval for the changes to the shared Allocations Policy. The last Council to consider the changes will be doing so in October.

5.2. Operation of 'Gateway to Homechoice' relies heavily on its IT system that registers applicants and automatically sorts the shortlist to make sure homes are offered to those with the highest priority. We have been working with the IT supplier 'Abritas', to ensure that a programme of changes is implemented as soon as possible. If members agree the policy changes, we expect to be able to start operating the new policy on 1st November 2012.

6. Homelessness Discharge of Duty

6.1. The Localism Act 2011 has made significant changes to the way in which Local Authorities can deal with applications for social housing and

homelessness applications under Parts 6 and 7 of the Housing Act 1996. At the present time we have not had a confirmed date for a commencement order for this change, but it is expected to be November 2012.

- 6.2. Local Authorities owe applicants who are homeless, eligible for assistance, in priority need and not intentionally homeless the main housing duty to secure suitable accommodation (unless a referral to another Local Authority can be made under the local connection provisions). Applicants can remain in temporary accommodation for a long period while they wait for a permanent offer of social housing.
- 6.3. Currently we can and do offer Assured Shorthold Tenancies with private landlords as discharge of the duty (known as the qualifying offer) but currently this can only be done with the consent of the applicant. Under the existing legislation an applicant can insist upon an offer of accommodation in the social sector.

7. Strategic Implications

- 7.1. The ability to discharge duty into the private sector enables us to build on providing more sustainable options in social housing communities. In 2011/12, 4565 social rented properties were let across the sub-region – 650 of these lets went to those towards whom the statutory homelessness duty had been accepted (14%). In Braintree, the figures for the same period were 114 lets to homeless households, 20% of the total. The vast majority of accepted homeless applicants are housed into social housing.
- 7.2. Being accepted as homeless currently guarantees a fast track into social housing. This means fewer properties are available for other housing needs groups and transfer cases: this is of particular concern given the potential impact of other aspects of welfare reform, particularly the reduction in housing benefit for those under-occupying social rented homes.
- 7.3. Braintree, in common with the national trend, is experiencing an increase in homeless applications: this puts extra pressure on temporary accommodation and has necessitated a request to Greenfields Community Housing (under the terms of the stock transfer agreement) for some additional units as well as two small flats being taken on for temporary use from Family Mosaic. This need for additional temporary accommodation has cost implications for the Authority.
- 7.4. The Localism Act allows Local Authorities to fully discharge the full housing duty by a 'private rented sector offer' (s193 (7AA)-(7AC) Housing Act 1996 as amended by s.148 (5)-(7) Localism Act 2011). This must be an offer of an Assured Shorthold Tenancy with a minimum fixed term of one year. Applicants will lose the discretion to decline the offer as a final discharge, although they will retain the right to request a review of suitability whether or not they accept the offer.
- 7.5. A Local Authority does not have to use a private rented sector offer; it is just one of the options that will be available to it. Each Local Authority can decide if it wants to use the new powers.
- 7.6. It is expected that these changes will apply only to new applicants i.e. those who make a homeless application on or after the date of commencement.

- 7.7. If an applicant is housed into the private rented sector in this way and subsequently given a section 21 notice to quit within two years of the offer being accepted then (where the applicant is eligible for assistance and not intentionally homeless) the homelessness duty to secure further suitable accommodation is revived. The duty revives even if the applicant no longer has a priority need, but it only applies to the first incidence of homelessness within the two-year period.
- 7.8. Following commencement of the relevant sections of the Act, a person provided with accommodation in the private rented sector (PRS) as final discharge of a homelessness duty will have no 'reasonable preference' for an allocation of permanent housing by reason of homelessness. This will end a significant link between Parts 6 and 7 of the Housing Act 1996. However, it should be noted that if the revised sub-regional Allocations Policy is adopted, there will be an equalisation of the priority awarded to applicants overcrowded in the PRS with those similarly overcrowded in the social sector.
- 7.9. As far as reasonably possible, a Local Authority must secure accommodation for homeless households in its own area. In recognition that this might not always be possible (particularly in London) and that many Local Authorities are likely to make more out-of-borough private rented sector offers, the local connection provisions have been amended so that where an applicant who accepted such an offer becomes homeless again within two years of the offer being accepted and applies to a different authority, s/he can be referred back to the original authority, unless there is a risk of domestic violence.

8. Suitability of Private Sector Accommodation

- 8.1. The Government will introduce a new Suitability of Accommodation Order for private rented sector offers. The current guidance on suitability contained in the Code of Guidance will also continue to apply.

The Suitability Order is likely to cover:

- Reasonable physical condition
- Electrical regulations
- Fire Safety - including smoke alarms
- CO poisoning – carbon monoxide alarm
- Fit and proper person – landlord
- HMO licensing
- Energy Performance Certificates
- Gas safety record
- Tenancy Agreement (12 months)

Note: Draft Guidance from the DCLG says that a full inspection by an Environmental Health Officer will not be required.

9. Implementation of discharge of duty into the private sector

- 9.1. The policy for the discharge of homelessness into the private sector is attached (Appendix B). The policy is shared with the other 'Gateway to Homechoice' councils.
- 9.2. Homelessness services are not as closely linked between Councils as our allocations services because the duties are more explicitly local and largely determined by very specific, detailed, statutory duties. By adopting a common

policy for discharge to the private sector, we are all less likely to undermine each other's approach by making sure we are taking similar decisions in similar circumstances.

- 9.3. Our ability to discharge into the private sector will be constrained by a number of issues affecting landlords that make accepting tenants on benefits more of a risk and less financially attractive than it may have been in the past. However, we recommend that we adopt a policy enabling us to use the sector, recognising that it is very unlikely to become the main way we discharge our duties.
- 9.4. We will continue to meet our legal duties to homeless households but homelessness will no longer give automatic priority for social housing as accepted homeless cases may now have the duty ended in the private rented sector wherever sufficient and suitable supply is available.
- 9.5. Access to social housing is limited and it is recommended that all options available to provide suitable accommodation to homeless households should be utilised.

Cabinet Response to the Recommendations from the Overview & Scrutiny Task & Finish Group's Report on Local Highway Liaison		Agenda No: 10a
Portfolio Area: Place Corporate Priority: Provide Value for money; Deliver excellent customer service Report presented by: Cllr R Mitchell, Deputy Cabinet Member, Place Report prepared by: Paul Partridge, Head of Operations		
Background Papers: Overview & Scrutiny Meetings 13 July & 12 October 2011 Cabinet 22 March 2012 & 16 July 2012 Full Council – 11 July 2012		Public Report
Options: To support or not support the proposed response.		Key Decision: No
<p>Cabinet thanks the Overview & Scrutiny Committee for its comprehensive and timely report on Local Highway Liaison and notes the recommendations made.</p> <p>Most of the recommendations relate to the customer experience of those reporting issues to either Essex County Council Highways and the Highways Agency and the two agencies' views have been sought and their comments reflected below.</p> <p>With particular reference to Essex County Council, they have recently entered into a new contract for highways maintenance and are enhancing their customer services procedures and systems. It should therefore be acknowledged that they are in a transitional period and it may take a little while before the full benefits of these improvements are fully realised.</p> <p>The new Local Highways Panel will ensure that there is a greater representation and influence at all tiers of local government, as well as providing a forum to prioritise highways issues raised at a local level. The Highways Panel is now the primary delivery mechanism for local schemes.</p> <p>Response to specific recommendations</p> <p><u>Recommendation 1</u></p> <p><i>That ECC Highways makes the following improvements to its customer service system:-</i></p> <p><i>(a) Revises the reference number system to make it simpler and more intuitive;</i></p>		

- (b) *Implements, as soon as possible, its new highways interactive website to provide customers with an on-line tracking facility to monitor progress on maintenance issues (to be widely advertised when in place);*

Cabinet Response: Cabinet acknowledges that ECC has made a number of improvements to its website including an interactive page for reporting highway defects. Further enhancements to be introduced in October 2012 include a facility for customers to track progress with their reports. It is recognised that any new system will take a period of time to bed in and that the more customers use the system, the more obvious the benefits will become.

- (c) *Writes to all Parish/Town Councils and District Members to explain how the new system works and what the key benefits and added value is to the customer;*

Cabinet Response: ECC has confirmed that a letter will be going out to all Parish/Town Councils shortly.

- (d) *Publishes up to date service standards on its website and communicates these to BDC and Parish Councils.*

Cabinet Response: Cabinet supports the recommendation for ECC to publish their service standards in relation to the more common requests for service, which might avoid the need to make repeat calls. It also acknowledges that the new interactive website and the ability to track progress on-line will partially address this issue. However, it would be helpful for this information to be given to town and parish councils who could then cascade it to their parishioners.

Recommendation 2

That ECC:-

- (a) *Develops a more flexible intervention criteria, especially in responding to issues reported by parish councils who have a useful role as the “eyes and ears” of their local communities; and*
- (b) *Considers extending the principle of the existing Highway Ranger service to Parish Councils that are willing to carry out minor works at a local level; and*
- (c) *Reviews and extends the role of the existing Highway Ranger service to cover as many of the locally reported issues as possible to ensure a speedy and quick completion of all minor works.*

Cabinet Response: Based on our own experience, the value of partnership working with Town and Parish Councils in carrying out basic tasks in their communities is widely acknowledged e.g. litter picking, strimming, grass cutting etc. Cabinet encourages ECC to explore opportunities to see if this approach can be trialled with a view to assessing the added value and benefits to be gained.

The value of the existing Highway Ranger service in delivering quick wins is widely recognised. The current cost of the service is considerably less than the budget allocated and ECC is encouraged to consider the possibility of providing a second team of Rangers or diverting some funding to fund a trial with parish councils whereby they carry out minor works on their behalf.

Recommendation 3

That ECC nominates a named officer (who could be based at Causeway House given the future joint use of the building) to work with District Members and Officers and Parish Councils on local highways issues, including attending site meetings.

Cabinet Response: Cabinet recognises that ECC has finite resources and must utilise these in the most efficient and effective way possible and it is simply not possible to devote a dedicated resource to individual authorities. However, under the new Local Highways Panel, they have nominated Rob McDonald as the main point of contact for all matters relating to the work of the Panel which includes new works and maintenance issues.

Recommendation 4

- (a) That the new Braintree Local Highways Panel includes an equal membership of 4 County, 4 District and 4 Town/Parish representatives;*
- (b) That all Panel meetings are held in public (unless there is a specific confidentiality issue) and that minutes and agendas are published on the BDC website as normal;*
- (c) That already identified and evidenced local improvement schemes, as agreed at the February 2012 Braintree Highways Panel meeting, are not delayed by a further re-appraisal;*
- (d) That a simple scoring matrix be developed that can be used to evaluate all future schemes to determine priorities locally as part of the decision making process; and*
- (e) That the Local Highways Panel (or a small Advisory Group comprising representatives of the Panel) review and comment locally on all new Traffic Regulation Order requests prior to their being determined by the North Essex Parking Partnership Joint Committee.*

Cabinet Response: All of the above have been agreed and implemented.

Recommendation 5

- (a) That BDC and ECC use existing officers attending the new Local Highways Panel to develop a more collaborative way of working together and with the HA on local issues; and*

Cabinet Response: This suggestion is welcomed and relevant officers have been asked to progress this.

- (b) That the HA publishes schedules (agreed with BDC) for cyclical/routine maintenance on the A12 and A120, including litter clearance and sweeping and ensures that this is communicated to relevant Parish Councils and District Members.*

Cabinet Response: The Highways Agency has already provided their programme for 2012/13 and future work programmes will be distributed to Parish Councils and District Members.

Recommendation 6

That BDC, ECC and the HA ensure that clear and concise information is made available on their websites and in relevant publications, as to which organisation is responsible for the various elements of the highway service, with contact details to access the correct service provider.

Cabinet Response: Cabinets supports this recommendation and suggests that this information is made available on the respective agencies' websites and in their publications and regularly reviewed and updated as required.

Decision:

Cabinet approves this response and delegates the actions outlined to the Corporate Director and/or Head of Operations to take forward.

Purpose of Decision:

To consider and respond to the recommendations made by the Overview & Scrutiny Task & Finish Group on Local Highway Liaison.

Corporate implications

Financial:	None
Legal:	None
Equalities/Diversity	None
Customer Impact:	The actions taken by key partners in response to the recommendations will improve the customer experience for those reporting highway issues.
Environment and Climate Change:	None
Consultation/Community Engagement:	Key stakeholders have been consulted.
Risks:	Not applicable
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Cabinet Member Decisions made under Delegated Powers	Agenda No: 11b
Portfolio Area:	
Report presented by: Not applicable – for noting only	
Report prepared by: Emma Wisbey, Local Governance Manager	
Background Papers:	Public Report
Cabinet Decisions made by individual Cabinet Members under delegated powers (signed copies retained by Member Services)	
Options:	Key Decision: No
For noting only	
Executive Summary:	
<p>All delegated decision taken by individual Cabinet Members are required to be published and listed for information on next Cabinet Agenda following the decision.</p> <p>Since the last Cabinet meeting the following Cabinet Members have taken delegated decisions:-</p> <p>Councillor Lady Newton – Cabinet Member (Prosperity)</p> <p>Decision taken on 18th July 2012 – To approve the basis of the Council’s response to the National Grid Connection Options Report consultation on the proposed high voltage connection between Bramford and Twinstead.</p> <p>Councillor Lady Newton – Cabinet Member (Planning and Property)</p> <p>Decision taken on 24th August 2012 – To approve the commitment of £91,512.87 Section 106 Contributions for Public Open Space enhancement to surface the last un-surfaced section of the Halstead River Walk over Braintree District Council land. The sum will be required in its entirety, based upon the costs of the first phase, and is aggregated from three separate agreements. The relevant sums and wording of the agreements are as follows:</p> <ol style="list-style-type: none"> 1. Land off Ronald Road, £7,048.38, “a contribution towards the cost of installing and maintaining public open space in the vicinity of the Application Site on an area to be determined by the Council as its absolute discretion”. 2. Priory Hall, £20,503.85, “towards both (a) the provision and/or improvement and/or maintenance of an area or areas of Open Space Sport and Recreation in the vicinity of the Site and (b) the District Projects”. 3. Land At Bayer Site, £63,960.64, “utilise this for the maintenance, enhancement or extension of Public Open Space in Halstead”. 	

Councillor Lady Newton – Cabinet Member (Planning and Property)

Decision taken on 10th September 2012 – To provide a response on behalf of the District Council to a consultation on “New Opportunities for sustainable development and growth through the reuse of existing buildings” from the Department for Communities and Local Government.

Cabinet Decisions made by individual Cabinet Members under delegated decisions can be viewed on the Access to Information page on the Council’s website.

www.braintree.gov.uk

Decision:

For Members to note the delegated decisions

Purpose of Decision:

The reasons for each decision can be found in the individual Delegated Decisions

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