

CABINET MEETING

The CABINET will meet at Council Chamber, Causeway House, Bocking End, Braintree, Essex, CM7 9HB on Monday 16th July 2012 at 7:15pm.

Membership

Councillor G Butland (Chairman) - Leader of the Council
Councillor Mrs J Beavis – People
Councillor Lady Newton – Prosperity
Councillor Mrs W Schmitt – Place
Councillor C Siddall – Performance

Invitees

Deputy Cabinet Portfolio Members:-

Councillor D L Bebb - Leader's Portfolios
Councillor J T McKee – Prosperity
Councillor R G S Mitchell – Place
Councillor J O'Reilly-Cicconi – Performance
Councillor P Tattersley – People

Other invitees:- Group Leaders and Chairmen of the Overview and Scrutiny Committee, Governance Committee and Local Development Framework Sub-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

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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 9 th May 2012 (Copy previously circulated).			
No	Title & Purpose of Report	Executive Summary	Additional Papers
5. PARTNERSHIP & OVERALL CORPORATE STRATEGY AND DIRECTION			
5a	Leader Update – The Leader of the Council to give a brief update on key issues and activities.	-----	-----
5b	Fourth Quarter and Annual Performance Management Report 2011/12 Presented by: Cllr G Butland/Cllr Siddall Officer Contact: Cherie Root	Page 1	Pages 1 to 28
5c	Welfare Reform - Localised Council Tax Support Scheme - <i>Report to follow</i> Presented by: Cllr G Butland Officer Contact: Trevor Wilson	-----	-----
6. PERFORMANCE			
6a	Statement of Accounts 2011/12 Presented by: Cllr C Siddall Officer Contact: Trevor Wilson	Page 4	Pages 29 to 32
6b	Capital Investment in New Fitness Facilities at Braintree Swim Centre and Braintree Leisure Centre Presented by: Cllr C Siddall Officer Contact: Trevor Wilson	Page 15	-----
6c	Review of Corporate Complaints Procedure Presented by: Cllr C Siddall Officer Contact: Tracey Headford	Page 20	Pages 33 to 37

7. PEOPLE

7a	Witham Leisure Centre - Report to follow Presented by: Cllr J Beavis Officer Contact: Nicola Beach	-----	-----
7b	Response to Localism Act and Localism Framework Presented by: Cllr J Beavis Officer Contact: Nicola Beach	Page 27	-----

8. CABINET MEMBERS'UPDATES

- to receive Cabinet Members' verbal reports on key issues within their portfolio

9. REFERENCES FROM COUNCIL/COMMITTEES/GROUPS

9a	Cabinet Response to the Recommendations from the Overview and Scrutiny Committee's Report on Transport and Access to Health Services across the District Presented by: Cllr D Bebb Officer Contact: Nicola Beach	Page 40	-----
9b	Overview and Scrutiny Committee - Scrutiny of Local Highway Liaison Presented by: Cllr J Abbott Officer Contact: Paul Partridge	Page 44	Pages 38 to 117
9c	To receive a recommendation from Governance Committee – 28th June 2012 Approval of the Annual Governance Statement 2011/12 Presented by: Cllr M Lager Officer Contact: Trevor Wilson	Page 49	Pages 118 to 139
9d	To receive a recommendation from Local Development Framework Sub-Committee – 23rd May 2012 – National Planning Framework Presented by: Cllr R Walter Officer Contact: Eleanor Dash	Page 50	Pages 140 to 147

10. REPORTS/ DELEGATED DECISIONS/MINUTES TO BE NOTED			
10a	<u>Minutes from Cabinet Sub Groups</u> To receive the minutes of the following – Local Development Framework Sub-Committee – 23 rd May 2012-	-----	Pages 148 to 154
10b	<u>Delegated Decisions</u> – to note recently made delegated decisions	Page 52	-----
11. URGENT BUSINESS AUTHORISED BY THE CHAIRMAN			
12. 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			

The last page of the public agenda is numbered P 53.

AGENDA – PRIVATE SESSION

No	Title & Purpose of Report	Executive Summary	Additional Papers
13. PROSPERITY			
13a	Mayland House – Report to follow Presented by: Cllr Lady Newton Officer Contact: Andrew Epsom	-----	-----
13b	Investment in the Regeneration of Braintree Town Centre Presented by: Cllr Lady Newton Officer Contact: Jon Hayden	Page P54	Pages P1

The last page of agenda – private session is numbered P57.

Fourth Quarter and Annual Performance Management Report 2011/12		Agenda No: 5b
<p>Corporate Priority: We deliver excellent, cost effective and valued services</p> <p>Corporate Priority: Performance</p> <p>Report presented by: Cllr Graham Butland/Cllr Chris Siddall</p> <p>Report prepared by: Cherie Root – Head of Business Solutions</p>		
<p>Background Papers:</p> <p>Fourth Quarter and end of year Performance Management Report January to March 2012.</p>		<p>Public Report: Yes</p>
<p>Options:</p> <p>To endorse the report.</p>		<p>Key Decision: No</p>
<p>The purpose of the report is to summarise the performance of the Council at the end of the year (to March 2012) in relation to the publication of 'Our plans for the District 2011/2012' which sets out our key activities and measures used to check our performance for the forthcoming year and along with the Corporate Strategy 2008-2012 sets out the priorities we are working towards.</p> <p><i>In summary at the end of the year: Projects</i></p> <ul style="list-style-type: none"> • 14 projects have been completed • 7 projects are on track to be completed • 1 project has been stopped <p><i>In summary at the end of the year :Performance Indicators</i></p> <ul style="list-style-type: none"> • 15 performance indicators have achieved target • 2 performance indicators has just missed target by less than 5% <p>There are 6 further performance indicators that do not have any targets set.</p> <p><i>Of all the indicators:</i></p> <ul style="list-style-type: none"> • 14 have improved on their performance compared to last year • 8 have deteriorated since last year • 1 has neither improved or deteriorated since last year <p>Overall, the performance in 2011/12 has been maintained at a high level across all service areas despite the challenges faced throughout the year with re-structures and changes to working practices.</p>		

Financial Performance

The provisional outturn on General Fund services is a net spend of £16.442 million, compared with a controllable budget of £17.101 million, giving an under spend of £658,716.

The provisional outturn for the Housing Revenue Account is a deficit of £202,533 compared with the original estimate for the year of a deficit of £180,000, giving an adverse variance of £22,533.

General Fund Commentary:

The favourable variance for the General Fund is £658,716 or -3.9% against budget. The under spend is greater than the £170,760 reported at the last quarter with changes mainly in Community Services (+£84,900), Financial Services (+£83,800), People & Democracy (+£115,900), and Sustainable Development (+£146,700). The variance comprises an under spend against expenditure budgets of £394,695, and over achievement of income of £264,021.

The movement on General Fund balances is a net addition of £90,000 giving a closing balance at 31 March 2012 of £2.875 million. The addition to balances includes further receipts of VAT refunds following successful appeals, and an adjustment made to the impairment charge in respect of investments at risk with Icelandic banks.

For a detailed explanation of the financial performance, please refer to page 19 onwards of the full report.

Overall Performance:

In overall terms, the Council has delivered an excellent performance in both delivery and financially. With the funding pressures on the Council and a reducing organisation, service delivery has improved, greater value to the customer achieved and our overall performance levels maintained. This can be attributed to a loyal and committed workforce who have sought continued improvement through greater efficiency and effectiveness. The success of 2011/12 as set out in this report will be converted into public information.

Decision:

To note and endorse the report

Purpose of Decision:

To inform the Cabinet of the performance of the Council

Any Corporate implications in relation to the following should be explained in detail	
Financial:	See page 19 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
Officer Contact:	Tracey Headford
Designation:	Performance Improvement Officer
Ext. No.	2442
E-mail:	tracey.headford@braintree.gov.uk

Statement of Accounts 2011/12		Agenda No: 6a
Corporate Priority: We deliver excellent, cost effective and valued services Portfolio Area: Performance Report presented by: Cllr Chris Siddall Report prepared by: Trevor Wilson, Head of Finance		
Background Papers:		Public Report
Accounting working papers 2011/12. Accounts and Audit (England) Regulations 2011		
Options: None		Key Decision: No
Executive Summary: <p>The Statement of Accounts for the financial year to 31st March 2012 has been compiled and was signed as representing a 'true and fair view' by Chris Fleetham, Corporate Director, on 29th June 2012.</p> <p>The Council's External Auditor, PKF, commenced the audit of the accounts on Monday 9th July 2012. The accounts will be available for public inspection over the four-week period – 1st to 29th August 2012; these details have been advertised in the local press.</p> <p>A copy of the Statement of Accounts can be found on the Council's website at: http://www.braintree.gov.uk/Braintree/councildemocracy/acc_info/</p> <p>The report summarises a number of the key issues included in the Accounts:</p> <ul style="list-style-type: none"> • Positive variance on the Revenue Account of £659,000 for the year. This reduces to £128,000 if budget carry forward requests of £531,000 are approved; • Gross revenue expenditure at £80.36million is the same as the previous year although the previous year's total was reduced by an exceptional item of £7.788million (Pension Fund past gain). Staffing costs reduced by £1.976million or 11.8% to £14.753 million. Other costs also reduced against the previous year with the exception of Housing and Council Tax Benefits which increased by £2.49million (5.2%) to £50.684million although this was matched by an increase in the subsidy received from Central Government; • Member and Special Responsibility Allowances which show a reduction in total over the previous year and which have been frozen at the 2008/09 level; • Pension contributions charged to the revenue account in 2011/12 were £3.382million. Employees paid between 5.5% and 7.5% of their salary into the Fund. The net liability (liabilities less assets) on the Pension Fund 		

attributable to this Council as at 31st March 2012 has been assessed at £ 57.669million, an increase of £17.62million from the net liability at 31st March 2011. This was due to an under performance on investment returns and a reduction in the discount rate applied to future cash flows.

- The potential losses on the investments at risk with Icelandic banks has been re-assessed based on the Icelandic Courts decision to give priority status to local authority investments, the repayments received in the year and an improvement in the predicted level of repayment. A reduction to the potential loss of £75,000 is included in the 2011/12 revenue account.
- A total of £6.837million was charged to capital in 2011/12.
- Usable reserves as at 31st March 2012 total £31.765million: of which £13.108million are revenue balances and earmarked reserves and £18.657 million are capital reserves (capital receipts and grants). The majority of the latter is committed to funding the agreed current capital programme.
- The Housing Revenue Account was closed on 31st March 2012: the revenue balance at that date, of £4.5million, has been transferred to the General Fund

Decision:

Members are asked to:

- Agree the requests for budget carry forwards, totalling £530,960 and detailed in Appendix A to the report, to 2012/13;
- Agree to establishing four new earmarked reserves, as detailed in section 3.7 of the report, and to the movements on the existing earmarked reserves during 2011/12; and
- Receive and note the Council's financial position as detailed in the Statement of Accounts for 2011/12.

Purpose of Decision:

To receive the Council's Statement of Accounts for 2011/12 which are to be subject to external audit scrutiny and available for public inspection.

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

Financial:	Detailed in the report
Legal:	Requirement for the Statement of Accounts to be drafted, agreed and available for external audit by 30 th June.
Equalities/Diversity	None
Customer Impact:	None
Environment and Climate Change:	None
Consultation/Community Engagement:	Statement of Accounts available for public inspection for four-week period (1 st to 29 th August 2012)
Risks:	None
Officer Contact:	Trevor Wilson
Designation:	Head of Finance
Ext. No.	2801
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1) Background

The Statement of Accounts for the financial year to 31st March 2012 has been compiled and was signed as representing a 'true and fair view' by Chris Fleetham, Corporate Director, on 29th June 2012. This authorisation process was introduced under section 8(2) of the Accounts and Audit (England) Regulations 2011. In previous years the Statement of Accounts would have been received and scrutinised by the Audit Committee by 30th June, prior to being subject to review by the External Auditor.

The 2011 Regulations still require the Statement of Accounts to be subject to scrutiny by a committee of members, but this is to be done after the accounts have been subject to external audit. This will allow the committee to have the benefit of receiving the report from the external auditor, to assist it in its scrutiny of the accounts. This is required to be completed by 30th September.

The Council's External Auditor, PKF, commenced the audit of the accounts on Monday 9th July 2012. The accounts will be available for public inspection between 1st and 29th August 2012; these details have been advertised in the local press.

The Statement of Accounts and report from the external auditors will be received by the Governance Committee on 19th September 2012. To assist with the scrutiny process a training session, open to all members, on understanding the Statement of Accounts has been arranged for Thursday, 6th September 2012.

Due to the size of the document the Statement of Accounts 2011/12 is not appended to this report but a copy can be found on the Council's website at: http://www.braintree.gov.uk/Braintree/councildemocracy/acc_info/

2) Statement of Accounts 2011/12

The Statement of Accounts for 2011/12 has been produced in accordance with International Financial Reporting Standards (IFRS) in so far as they are applied to UK local authorities according to the Code of Practice on Local Authority Accounting issued by the Chartered Institute of Public Finance and Accountancy.

The requirements of IFRS result in a number of additional 'paper' transactions and adjustments being put through the income and expenditure account.

The inclusion of these various adjustments results in the Comprehensive Income and Expenditure Statement showing a net surplus of £14.017million for 2011/12. This compares to a net surplus of £31.372million for 2010/11.

A local authority is, however required to determine its revenue (including amounts required from council taxpayers) and capital resources according to statutory regulations rather than IFRS accounting rules. Consequently adjustments are made to the surplus on the Comprehensive Income and Expenditure Statement, to eliminate the 'paper' adjustments, to reconcile the IFRS accounts to the actual change in the Council's resources, as reflected in the General Fund balance within the Usable Reserves. The actual movement on the General Fund balance for the year was a net addition of £90,000.

3) Key points from the 2011/12 Statement of Accounts

3.1 A summary of the **Comprehensive Income and Expenditure Statement** provides the following information:

2010/11		Service	2011/12	
Gross Exp. £'000	%		Gross Exp. £'000	%
13,094	16.3	Central services to the public	12,905	16.1
10,714	13.3	Cultural and related services	5,359	6.7
11,012	13.7	Environmental and regulatory services	10,844	13.5
3,308	4.1	Planning and development services	3,039	3.8
203	0.3	Local authority housing	139	0.2
41,892	52.2	Other housing services	43,583	54.2
2,756	3.4	Parking and transport services	1,221	1.5
3,583	4.5	Corporate & democratic core	3,338	4.1
51	0.1	Non-distributed costs	401	0.5
(7,788)	(9.7)	Exceptional Item: pension fund past service gain	-	-
78,825	98.2	Gross Cost of Services	80,829	100.6
1,472	1.8	Corporate financing	(466)	(0.6)
80,297	100.0	Gross Revenue Expenditure	80,363	100.0

2010/11		Type of expenditure	2011/12	
Gross Exp. £'000	%		Gross Exp. £'000	%
16,729	20.9	Employees	14,753	18.4
8,734	10.9	Charges for the use of assets	3,888	4.8
49,738	61.9	Transfer payments	51,991	64.7
3,398	4.2	Third party payments	3,182	4.0
7,963	9.9	Other running costs	6,614	8.2
51	0.1	Non-distributed costs	401	0.5
(7,788)	(9.7)	Exceptional Item: pension fund past service gain	-	-
78,825	98.2	Gross Cost of Services	80,829	100.6
1,472	1.8	Corporate financing	(466)	(0.6)
80,297	100.0	Gross Revenue Expenditure	80,363	100.0

2010/11		Sources of funding	2011/12	
£'000	%		£'000	%
51,519	64.1	Specific government grants and subsidies	53,101	66.1
61	0.1	Housing rents	80	0.1
4,067	5.1	Sales, fees, and charges	3,809	4.7
3,428	4.3	Costs recovered, rents, and other contributions	4,249	5.3
59,075	73.6	Sub-Total - Service Gross Income	61,239	76.2
1,120	1.4	Income from financial and property investments	1,726	2.1
1,516	1.9	General government grants (revenue)	2,703	3.4
8,934	11.1	Redistributed business rates	5,903	7.4
8,668	10.8	Council Taxpayers	8,792	10.9
984	1.2	Withdrawal from balances and reserves	-	-
80,297	100.0	Total	80,363	100.0

The outturn on the General Fund was a net spend of £16.442 million, compared with a controllable budget of £17.101 million giving an under spend, before requests for budget carry forward, of £0.659million.

The main reasons for this positive variance were:

An under spend against expenditure budgets of £395,000, with the principal variations being:

- Salaries – (£126,000) – vacancies, non-filling of posts and no pay award (the underspend is after the achievement of the efficiency/vacancy target of £233,000)
- Corporate budgets – (£247,000) – postages, telephony costs, external audit fees, marketing & publicity, etc.

An over achievement of income against budget of £264,000, with the principal variations being:

- Additional income from car parks (£56,000)
- Sale of recyclable materials (£208,000)
- Council tax and benefit overpayment recoveries (£94,000)
- Community transport (£40,000)
- Asset management (£55,000);
offset partially by shortfalls of:
- Development Control fees (£152,000) and
- Building Control fees (£107,000)

The under spend of £0.659million represented a variation of 3.85% against the original net budget of £17.101million. The majority of these variations were incorporated in the budget agreed for 2012/13.

Requests to carry forward resources totalling £530,960 have been incorporated in the Comprehensive Income and Expenditure Statement. This reduces the under spend from £0.659million to £0.128million. Cabinet approval for the carry forwards is requested. A schedule of the requests is provided at Appendix A. Appendix A also includes details of approved carry forward budgets from previous years which were not spent in 2011/12. It is recommended that these budgets, totalling £109,180, be transferred to the Service Improvement reserve. Authorisation to spend against these budgets is to be requested from the Leader of the Council.

The net addition to the General Fund balance for the year was £90,000 which increased the balance as at 31st March 2012 of £2.875million. However the actual balance on the General Fund balance as at 31st March 2012 was £7.39million. This is because the balance on the Housing Revenue Account, of £4.515million, was transferred to the General Fund following the Secretary of State for Communities and Local Government granting permission for the Council to close its Housing Revenue Account on 31st March 2012.

The original budget for the year was based on a planned withdrawal from the General Fund Balance of £581,115. However, movements on the balance during the year were as follows:

Agreed by members -

- A provision of £187,000 earmarked to meet the costs of holding Mayland House vacant until either rental or sale was agreed;
- Allocation of a second sum of £250,000 to the Mi Community Fund;
- Provisions of £60,000 for costs associated with the transfer of a number of assets to parish councils and £61,000 for the continuation of the Modern Apprenticeship scheme for a further two years;
- A revenue grant of £50,000 to the Braintree District Museum and Study Trust;

Receipts and adjustments -

- Refunds of VAT (plus interest) and national insurance contributions totalling £880,000;
- Accrued interest and a partial reversal of the impairment charge on investments at risk, totalling £270,000. The latter reflecting the latest position on the likely level of recovery from the Winding Up Boards of the Icelandic banks.

And finally, the addition of the net under spend for the year of £128,000.

3.2 Members Allowances and Expenses Reimbursed

The amount of Member Allowances and Expenses Reimbursed for 2011/12 and 2010/11 is summarised in the table below:

	2011/12 £	2010/11 £
Basic Allowances	259,075	266,203
Special Responsibility Allowances	123,161	162,314
Expenses Reimbursed	17,844	15,773
Total	400,080	444,290

Whilst the level of both the basic and special responsibility allowances has remained the same since 2008/09 the reduction in the amount of special responsibility allowances resulted from the change introduced by the Leader of the Council to the number of members on the Cabinet for 2011/12: from 15 (7 portfolio holders and 8 deputies) down to 10 (5 portfolio holders and 5 deputies).

3.3 Salaries of Senior Managers and other staff earning over £50,000

A summary of the remuneration to senior managers and to other members of staff earning more than £50,000 per annum is provided in the table below:

	2011/12		2010/11	
	Total remuneration in year including pension contributions (£)	Number of staff as at 31 st March	Total remuneration in year including pension contributions (£)	Number of staff as at 31 st March
Senior Staff	869,364	10	865,624	11
Other staff earning over £50,000	285,418	5	283,644	5
Senior Staff left during the year	112,896	1	304,798	3
Other staff earning over £50,000 left during the year	0	0	258,007	4

3.4 Pension Contributions and Pension Fund Liabilities

The actual amount charged to the revenue account for pension contributions in 2011/12 was £3.382million, based on employer contributions set at the March 2010 actuarial valuation. Employees paid a total of £641,000 into the Pension Fund in the year, based on contribution rates ranging between 5.5% and 7.5%, depending on individual salary levels.

The Balance Sheet shows the Council's share of the assets and liabilities of the Essex Pension Fund is an estimated net liability of £57.669million; this is an increase of £17.62million over the net liability at 31st March 2011. The principal reasons for the increase are:

- A reduction in the discount rate from 5.5% to 4.6% applied to future cash flows when calculating the present day value of pension liabilities; and
- An under performance on investment returns from the Fund's assets which returned 1.1% for the year against the actuary's long-term assumption of 6.3%.

Whilst this change in net liability has a significant impact on the net worth of the Council, in the medium-term the cost of pensions to the Council remain at a level set at the last formal actuarial review of the Fund. The Council's pension contribution to be paid into the Fund for 2012/13 is estimated to be £3.422million.

The financial position of the Essex Pension Fund will be re-assessed at the next triennial review which will be undertaken as at 31st March 2013. This review will take into account the outcome and changes made to the Local Government Pension Scheme resulting from the Government's review of Public Sector pension schemes.

3.5 Investments at Risk

The Council was required to account for the potential losses on the investments at risk in the Icelandic banks in 2010/11. The assessment of the potential losses was based on the best information available at the time of drawing up the accounts. The potential loss accounted for in 2010/11 was £762,932; consisting of principal of £334,520 and interest of £428,412.

The potential losses have been re-assessed based on the latest information available to the Council at the Balance Sheet date. This has resulted in a reduction in the impairment charge made in the 2010/11 accounts of £75,336, reflecting an overall improvement in the levels of recoveries anticipated.

In October 2011 the Icelandic Supreme Court ruled that UK local authorities' claims in the administration of Landsbanki Islands hf and Glitnir Bank hf qualified as priority claims under Icelandic bankruptcy legislation. Following the decision the Glitnir Winding Up Board made a distribution which resulted in £836,571 being received by the Council. In addition an amount of 38,590,861 ISK (Icelandic Kroner) was paid into an Icelandic interest bearing escrow account which at the 31 March 2012 was valued at £190,149.

The Council also received a first distribution of £917,047 from Landsbanki with a further amount of 4,345,735 ISK being paid into an escrow account in Iceland, with an estimated sterling value at 31 March 2012 of £21,413. Post balance sheet date, the Council has received a second distribution from Landsbanki of

£385,120. Further distributions are anticipated from Landsbanki based on an expectation of full recovery, but this will be subject to the impact of foreign exchange rates.

The Council has also received two further distributions during the year from the Administrator for Kaupthing, Singer and Friedlander amounting to £102,885. A further distribution has been received, post balance sheet date, amounting to £102,885. In total the amount recovered to-date is £751,063 representing 73p in the £ pound. The latest estimate by the Administrator is for final recoveries to be in the range of between 81p and 86p in the £.

3.6 Capital

A summary of the spending on capital projects in 2011/12 is shown in the table below:

2010/11 £'000		2011/12 £'000
	Capital spent on assets owned by the Council:	
3,920	Property, plant and equipment	5,188
4	Investment properties	89
-	Intangible assets - Computer systems	81
106	Assets held for sale	74
4,030	Sub-total	5,432
	Capital payments to other organisations and individuals:	
222	Local committee grants to community projects	21
406	Disabled facility grants	471
292	Home improvement grants	165
662	Support to social housing schemes provided by other registered social landlords	486
-	Capital Loan	149
5	Other expenditure on assets not owned by the Council	113
1,587	Sub-total	1,405
762	Revenue costs capitalised under Direction from the Secretary of State for Communities & Local Government	-
6,379	Total Capital Expenditure	6,837

Capital spending on property, plant and equipment included major refurbishment works to the Council's main office building, Causeway House, making it fit for future operational service as well as creating opportunity to lease out space to Essex County Council. Refurbishment works were also carried out to the Town Hall Centre, preserving its historic significance and facilitating its operational use for room hire and civic ceremonies. A new food waste service has been introduced to approximately 40,000 properties across the District and preparations made for a new leisure centre in Witham as replacement for the ageing Bramston Sports Centre.

3.7 Balances

The usable reserves as at 31st March 2012 are:

Usable Reserves	Bal b/fwd 1 April 2011 £000	Movement in 2011/12 £000	Transfer between Balances	Bal c/fwd 31 March 2012 £000
General Fund balance	2,785	90	4,515	7,390
Housing Revenue Account (HRA) balance	4,718	(203)	(4,515)	-
Earmarked Reserves	3,996	1,722	-	5,718
Total Revenue Reserves	11,499	1,609	-	13,108
Capital receipts reserve	17,566	(2,602)	-	14,964
Capital grants unapplied (includes Growth Area Funding)	3,938	(245)	-	3,693
Total Capital reserves	21,504	(2,847)	-	18,657
Total Usable Reserves	33,003	(1,238)	-	31,765

The net movement on earmarked reserves was £1.72million during the year. This includes the establishment of four new reserves:

- New Homes Bonus (£510,000) – Government grant which members have agreed will be spent on infrastructure and affordable housing schemes;
- Discovery Centre All Weather Pitch (£19,000) – sinking fund to provide funding for the replacement of the pitch surface;
- Mi Community Fund (£531,000) – members agreed the establishment of the Fund which will provide grants to voluntary and community organisations within the district over the next three years;
- Provision for Land Charges refunds (£90,000) - Following revocation of the prescribed fee chargeable by local authorities for personal searches of the local land register the Council has received a number of claims for refunds. This matter is subject to on-going joint litigation, coordinated by the Local Government Association. The outcome may require the Council to administer a scheme of refund of charges to past users of the service, including personal search companies.

Earmarked reserves also include the budget carry forwards to 2012/13 (£530,960) as listed in Appendix A and a transfer of £100,000 to the Investment Fund, being the balance remaining in 2011/12 of the agreed budget (of £200,000) for one-off costs for contract renewals, shared services and strategic procurement.

The Cabinet is requested to agree the movements on the earmarked reserves.

3.8 Collection Fund

The Collection Fund is a statutory account that records the accounting entries of the Council as billing authority for the collection of council taxes and business rates for both itself and for Essex County Council, Essex Police Authority, Essex Fire and Rescue Authority, local parish and town councils, and central government. Balances retained are held on behalf of local taxpayers and taken into account when calculating future council tax rates.

Income from council tax was £79.693 million for the year, which after paying precepts resulted in a net deficit for the year of £302,000. Taking account of the balance brought forward, the Collection Fund balance at the end of the year was a £58,000 deficit, which will be taken into account when calculating requirements for council tax for 2013/14.

The account also reflects the collection of £32.707 million of business rates the majority of which is paid over to central government for pooling nationally and redistributing back to local authorities. The Council received £5.903 million of business rates as part of its government grant.

Capital Investment in New Fitness Facilities at Braintree Swim Centre and Braintree Leisure Centre		Agenda No: 6b
Corporate Priority: Safe and Healthy Living; Value for Money Portfolio Area: Performance Report presented by: Cllr Chris Siddall Report prepared by: Nicola Beach		
Background Papers: 1. Cabinet report 9th June 2011 on Leisure Services and procurement of a new leisure management contract; 2. Cabinet report 9th May 2012 Award of New Leisure Contract.		Public Report: Yes
Options: To recommend to Council or not the use of capital funds to invest in new fitness facilities in the Braintree area		Key Decision: Yes
Executive Summary <p>On the 9th May 2012, Cabinet approved the award of the new leisure management contract to Fusion Lifestyle based on their mandatory variant bid. In the mandatory variant bid, bidders were required to put forward proposals to increase the fitness capacity in the Braintree area. Fusion's plans are to expand the fitness suite and studio capacity at Braintree Leisure Centre (BLC) and put in a new fitness suite and studio capacity at Braintree Swim Centre (BSC).</p> <p>In the accepted tender from Fusion, the Council will receive an annual contract payment from year 1 (2012/13) over the next 10 years. At time of contract award this figure was £94,457 per annum although this may vary with final arrangements on pension schemes (as reported to Cabinet in June 2012). This payment is based on Fusion paying for the capital investment required to improve fitness facilities at Braintree Swim Centre and Braintree Leisure Centre. Fusion proposes to complete this work in the autumn of 2013.</p> <p>Alternatively, the Council has the option of procuring and funding the building works to increase the fitness capacity at Braintree Swim Centre and Braintree Leisure Centre, which could still be provided by Fusion. If the Council procures the improvement works at a cost of £945,000 then Fusion proposes to pay the Council an additional revenue payment of £129,505 per annum from year 1 of the contract over 10 years (this is over and above the £94,457).</p> <p>On the 9th May, Cabinet supported the proposal to open discussions with Fusion in</p>		

respect of the Council making a capital investment. These discussions have now taken place and the proposal for the Council to procure the improvement works and receive a revenue return from Fusion (as set out above) is on the basis of:

- Fusion provide building improvement works to Braintree Swim Centre and Braintree leisure Centre at a fixed price of £945,000
- Fusion take full responsibility for the design and project management of the works, in accordance with their submission under the mandatory variant bid
- Fusion's costs of managing these improvement works are included in the £945,000, there are no additional costs to the Council;
- Fusion will provide all the fitness equipment and other kit needed for the new studios and fitness suites within the contract price;
- The investment by the Council will guarantee a revenue return from Fusion of £129,505 per annum from year 1 of the contract (from Sept 2012) over 10 years;
- The Council will pay Fusion in staged payments linked to the works programme and based on evidence by work done to date;
- Fusion take all risks on the project, which includes:
 - the cost of the works being higher than estimate of £945,000;
 - the works taking longer to complete than autumn 2013; the revenue return to the Council remains fixed;
- The risks retained by the Council are those already built into the main contract such as delays or problems caused by latent defects with Braintree Swim Centre, or if the Council requests a change in scope or timing of the improvement works;
- If Fusion make a contractors profit in excess of 10% of the fixed price of providing £945,000 then Fusion will agree to refund 50% of this surplus to the council.

Decisions:

- 1) For Cabinet to support the investment of £945,000 in new fitness facilities at Braintree Leisure Centre and Braintree Swim Centre which generates a revenue return from Fusion to the Council;**
- 2) Recommend to Council the allocation of £945,000 from the Council's capital funds for this purpose.**

Purpose of Decision:

To allow the Council to make the capital investment in new fitness facilities in the Braintree area for an annual revenue return from Fusion, the new leisure management contractor.

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

<p>Financial:</p>	<p>The Council has the option of procuring the improvement works to increase the fitness capacity at Braintree Swim Centre and Braintree Leisure Centre, as set out by Fusion in its mandatory variant bid. If the Council procures the improvement works (estimated to be £945,000) then Fusion proposes to pay the Council an additional annual revenue payment of £129,505 from year 1 of the contract over 10 years. Work to be completed in autumn 2013.</p> <p>This will be a fixed price contract (£945,000) for the Council with a guaranteed revenue return of £129,505 per annum over the 10 years of the contract.</p> <p>Consideration could be given to using part of the revenue return generated to replenish the capital budget of the Council over a 10 year period; this means that of the £129,505 pa guaranteed revenue return, £94,500 pa would be put back into capital funds.</p> <p>The rate of return on the investment is 3.7% per annum which is significantly greater than currently being achieved from the Councils other investments.</p>
<p>Legal:</p>	<p>The agreement between the Council and Fusion as to the terms and conditions of this investment will be an addendum to the new leisure contract. The final drafting of this will be done by Walker Morris, external legal advisors engaged on the leisure project.</p> <p>Under the Constitution Article 16 – Finance, Contracts and Legal Matters (section A16.2.2), the Corporate Director will agree and sign off the final addendum in consultation with the Corporate Director for Finance and Head of Governance.</p>
<p>Equalities/Diversity</p>	<p>The new leisure contract will adhere to the Council's equality and diversity policies; an equality impact assessment will be carried out on any changes to policies and service levels under the new specification, including any improvement works carried out to leisure centres, e.g. ensure appropriate access for people with disabilities.</p>

Customer Impact:	<p>The investment in new fitness suite and studio capacity at Braintree Swim Centre and Braintree Leisure Centre will significantly improve the leisure service on offer to customers living and working in the Braintree town area as the current fitness facility at Braintree Leisure Centre is small and has limited use do to the joint use agreement. This expansion will ensure greater opportunity for the community to use this facility at all times of the day.</p> <p>Service disruption and therefore any detrimental impact to customers during the construction phase will be kept to a minimum and closely monitored by the Council and Fusion, with good customer communication in place.</p>
Environment and Climate Change:	Fusion is proposing to implement the environmental ISO14001 standard across the contract and achieve the Carbon Standard at all sites too.
Consultation/Community Engagement:	<p>A leisure bulletin is produced and regularly circulated to all stakeholders including sports groups and clubs, leisure staff, councillors, parish and town councils. These bulletins will continue throughout the new contract and cover the progress of improvement works.</p>
Risks:	<p>The risks to the Council of this investment proposal are low as Fusion will take all the risks associated with the procurement, design, build, timescales and cost of the improvement works.</p> <p>One risk retained by the Council remains that associated with any latent defects at Braintree Swim Centre and/or Braintree Leisure Centre that affect the cost or progress of the improvement works. Both the Council (prior to tender) and Fusion have carried out a feasibility and cost assessment of these works. A further detailed technical survey of Braintree Swim Centre is planned.</p> <p>Another risk to the Council is that a licence for alterations is required from Freeport for changes made to Braintree Swim Centre as the Council leases the land from Freeport. Contact has been made with Freeport and this is being progressed with solicitors.</p> <p>There are two other risks associated with the new leisure contract and the Council's relationship with Fusion that are relevant to this proposal; both were previously reported to Cabinet in the 9th May 2012 report as below:</p> <ul style="list-style-type: none"> • New leisure contractor does not perform well and customer service is affected – bidders have been through a rigorous procurement process with previous performance and quality of bids assessed

	<p>and references taken up; performance will be monitored by the Council on a monthly basis to help develop the service, but also spot any early warning signs of service dropping below acceptable standards.</p> <ul style="list-style-type: none"> Income assumptions prove to be wrong and financially the new contract fails – there has been detailed analysis of the bids using external and internal expertise to carry out checks on the financial part of the tenders.
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Review of Corporate Complaints Procedure		Agenda No: 6c
Corporate Priority: Performance Report presented by: Cllr Chris Siddall Report prepared by: Tracey Headford (Performance Improvement Officer)		
Background Papers: Draft complaints policy (see appendix)		Public Report
Options: To approve or not approve the revised Complaints Policy.		Key Decision: No
Executive Summary: <p>The current complaints procedure has been reviewed and a revised Complaints Policy written.</p> <p>The review involved looking at current working practices for dealing with complaints in each service area, reviewing the current stages of the complaints procedure, who deals with the complaints and timescales.</p> <p>The current complaints procedure is as follows:</p> <p>Stage 1 – Each service deals with the complaint aiming for 7 working days in which to respond.</p> <p>Stage 2 – involves a review of the case by the Chief Executive aiming to respond with 7 working days</p> <p>Stage 3 – involves a review by the Chairman and Vice Chairman aiming to respond with 7 working days</p> <p>Analysis of complaints has shown that stage 2 complaints generally take much longer than 7 working days to respond due to the nature of the complaints which are usually more complex and will involve a full review of the stage 1 complaint. There may also be additional information that has come to light that will need to be taken into account. For this reason it is appropriate to review and revise the target time frame for a response to stage 2 complaints. Extending the time frame sets more realistic expectations to customers and gives more scope for investigating Officers to undertake a full and robust review of the complaint. The same applies to complaints which reach stage 3.</p> <p>The Local Government Ombudsman (LGO) normally expects that a complaint should</p>		

be considered through all stages of the Councils complaints procedure and has decided that 12 weeks should usually be allowed for this to happen. The LGO do not recommend the number of stages and the 12 weeks is only guidance as each complaint will be treated individually depending on the complexity of the complaint.

Although the current process states clearly that stage 1 complaints are dealt with by the service, it does not state the level of management involved in dealing with the complaint and this varies across each service area with Service Unit Managers, Heads of Service and even Directors responding to the initial Stage 1 complaint.

Benchmarking of the stages of the complaints process has been carried out across Essex Authorities and we seem to be unique in the fact that stage 2 is dealt with by the Chief Executive and stage 3 by the Chairman and Vice Chairman. Other Authorities do not seem to involve their Chief Executive until stage 3 and stage 2 complaints are dealt with by either the Head of Service or Director.

We need to be clear in our policy as to who is responsible for dealing with the complaint in all stages of the process and by ensuring Directors of the service are more involved in stage 2 of the process, any rectifications will be addressed sooner in the complaints process and it will also help to drive out inefficiencies, ensuring all our policies and procedures within the services are fit for purpose and ensure that staff are given appropriate and adequate training that will support them in delivering better services.

The proposed changes to the complaints process are reflected in the draft Complaints Policy which requires members' approval. The Policy has also been updated to include a section on how to handle vexatious complainants to provide clear guidance to staff and members of the public about the behaviours that will not be accepted and how the Council will manage this.

It is proposed to provide ward level reports on all stage 2 complaints which will be made available quarterly via the member's portal once the revised complaints policy has been agreed.

Decision:

To approve the revised complaints policy and agree changes to the following procedures:

- a) Three stage process is retained with member awareness:
 - Stage 1 – Service Unit Manager/Head of Service (or equivalent)
 - Stage 2 – Director (or equivalent)
 - Stage 3 – Chief Executive with member awareness where necessary.
- b) That the performance standard response time for complaints is confirmed as:
 - Stage 1 – 7 working days (no change)
 - Stage 2 – 13 working days
 - Stage 3 – 20 working days

The length of time for a complaint to be considered through all stages of the Council's complaints procedure will be 8 weeks and will still exceed Local Government Ombudsman's requirements.

Purpose of Decision:

The aim of revising the corporate complaints policy is to:

- Ensure complaints are handled more effectively
- There is a policy in place for handling vexatious complainants

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

Financial:	There are no financial implications
Legal:	There are no legal implications.
Equalities/Diversity	Not applicable
Customer Impact:	Complaints are handled more effectively
Environment and Climate Change:	Not applicable
Consultation/Community Engagement:	Internal consultation with complaint champions within each service area and Senior Managers
Risks:	Customers may be dissatisfied that stage 2 and 3 timescales for response are being extended. However, extension in timescales gives more realistic expectations to customers on the length of time it actually takes to conduct a full and robust investigation of a previous complaint.
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Complaints Review

1. Introduction

A full review of the current complaints procedure and complaints policy has been carried out. The review involved looking at current working practices for dealing with complaints in each service area, comparing procedures and policies with other Authorities and reviewing the current stages of the complaints procedure.

It is proposed to

- Adjust timescales for stages 2 and 3 complaints to reflect the complexity of the investigation.
- Introduce standard operating procedures to ensure a consistent approach to handling complaints.
- Amend the stages of the complaints procedure to ensure the appropriate level of management is engaged in the investigating and response to the complaint
- Update the existing complaints policy to include handling of vexatious complainants
- To have further performance measures in place.

2. Current procedures

The current complaints procedure is as follows:

Stage 1 – Each service deals with the complaint and aims to respond to the complaint within 7 working days

Stage 2 – The complaint and response is reviewed by the Chief Executive who aims to respond to the complaint within 7 working days

Stage 3 – A review of the complaint and responses is undertaken by the Chairman and Vice Chairman aiming to respond with 7 working days

After speaking with complaints champions in each service area, it has been found that stage 1 complaints are dealt with by different levels of management. Further analysis of the complaints has shown that stage 2 complaints are usually more complex involving a full review at stage 1. There may also be additional information that has come to light that will need to be taken into account. Therefore, responses to stage 2 complaints may take longer than 7 working days.

Historically the Scrutiny Manager spent much of his time dealing with stage 2 complaints. Since May, the Governance Lawyer has taken responsibility for reviewing stage 2 complaints and due to workload and the complexity of some of the complaints, at times the target of 7 days has not been met.

Benchmarking of the stages of the complaints process has been carried out across Essex Authorities and we seem to be unique in the fact that stage 2 is dealt with by the Chief Executive and stage 3 by the Chairman and Vice Chairman. Other Authorities do not involve their Chief Executive until stage 3 and stage 2 complaints are dealt with by either the Head of Service or Director.

The review has also highlighted that there is wide variation in the working procedures

of service areas when a complaint is received. Each service area has a designated “Complaints Champion” who is responsible for ensuring that complaints are dealt with by the relevant person within the appropriate timescale and for submitting complaints reports at the end of each month to allow corporate reporting on complaints handling performance.

Some procedures followed by different people may impact on services not meeting response times as they contribute to delay. For example in some situations the original letter of complaint is passed back and forth between varying people before it finally reaches a manager to deal with. For more complex complaints, time can be crucial and a one day delay at the beginning and end can have a detrimental impact on response times.

As no two services operate in the same way, it is impossible to map the process. However, from discussions with Complaints Champions, it is easy to identify where changes need to be made and standard operating procedures can be developed.

Although the current process states clearly that stage 1 complaints are dealt with by the service, it does not state the level of management involved in dealing with the complaint and this varies across each service area with Service Unit Managers, Heads of Service and even Directors responding to the initial complaint.

Proposals

The proposal is to amend the stages of the complaints procedure as follows:

Stage 1

When a complaint is received, an appropriate manager will carry out an investigation of the complaint and provide a full response.

We aim to provide a full response to all stage 1 complaints within seven working days but some complaints will take longer to investigate properly. In these cases, the customer must be told when they can expect a full reply.

Stage 2

Complaints that are not satisfactorily resolved at stage 1 will be escalated to stage 2 where a Director will deal with the complaint. This will involve a review of the complaint under stage one.

When a stage 2 complaint is received, a full response should be provided within 13 working days. If the complaint takes longer to investigate, the customer must be kept informed of the progress.

A summary of all stage 2 complaints will be published to Councillors classified by Ward level on a monthly basis.

Stage 3

Complaints that are not satisfactorily resolved at stage 2 will be escalated to stage 3 where the Chief Executive will deal with the complaint. This will involve a review of the complaint under the previous stages. The complaint will also be discussed with the appropriate Cabinet Member.

A full response should be provided within 20 working days and if the complaint takes longer to investigate, the customer must be kept informed of the progress.

This is the final stage of the Councils complaints procedure. If the customer is still not happy with the outcome of the complaint, they can contact the Local Government Ombudsman who is an independent government appointed representative who will act as an impartial investigator

The revised process will replace any involvement in the complaints process by the Chairman and Vice Chairman with the appropriate Cabinet Member. The service areas will take more responsibility in dealing with stage 1 complaints as there will be no Director involvement. The Director can receive details of the complaints and how they have been dealt with but must not get involved as they will be solely responsible for investigating the handling of the complaint if it is escalated to stage 2. The revised complaints procedure is also more in line with other Essex Authorities.

Currently, all stages of the complaints process are monitored under one performance indicator. Regardless of whether the procedures are changed or not, monitoring of the complaints should be separated and each stage of the complaints process monitored separately and targets set accordingly. There is also a need to monitor satisfaction of the complaints and methods are being developed to undertake this appropriately.

Each service will need to follow standard operating procedures and the complaints champion in each area will need to ensure monthly returns are submitted in a timely manner to enable effective and efficient reporting of overall performance. Where complaints are not responded to within the relevant timescale, full and honest reasons will need to be provided to ensure that further monitoring of the new procedures can take place.

The complaints policy has been amended to reflect the changes described and contains the following key areas:

- Stages of the complaints procedure detailing:
 - timescales for each stage of the process
 - Level of management involved at each stage
 - Member awareness of the complaint at stage 3 of the process
- What customers can expect:
 - Acknowledgement
 - Stage the complaint will be dealt under
 - Contact details
 - To be kept informed
 - Right of further re-dress
- Remedies for justified complaints
- Role of the Local Councillor including ward level reports on stage 2 complaints made available on the members portal
- Vexatious Complainants
- Exceptions to the policy

The revised complaints policy can be seen in the appendix to this report.

3. Recommendations

The revised complaints process and draft policy needs to be approved by Cabinet in respect of:

- a) a three stage process is retained with member awareness:
 - i. Stage 1 – Service Unit Manager/Head of Service (or equivalent)

- ii. Stage 2 – Director (or equivalent)
 - iii. Stage 3 – Chief Executive with member awareness where necessary.
- a) That the performance standard response time for complaints is confirmed as:
- i. Stage 1 – 7 working days (no change)
 - ii. Stage 2 – 13 working days
 - iii. Stage 3 – 20 working days

Response to Localism Act and Localism Framework		Agenda No: 7b
Corporate Priority: Flourishing Communities Portfolio Area: People Report presented by: Cllr Mrs Joanne Beavis Report prepared by: Nicola Beach		
Background Papers: Localism Act 2011 Open Public Services White Paper July 2011 Open Public Services March 2012		Public Report
Options: To agree, amend or reject the proposed response to the Localism Act and virement of resources		Key Decision: Yes
Executive Summary: <p>The Open Public Services White Paper and the Localism Act 2011 make specific legislative requirements which the Council must adequately prepare for, especially in relation to new Community Rights. Within the proposed localism framework the Council will also take forward the Witham Neighbourhood Level Community Budget and contribute to, the Whole Essex Community Budget coordinated by Essex County Council. The Rural Community Council of Essex (RCCE) has been engaged to increase support to the localism and neighbourhood planning programmes working with parish and town councils and local communities. Alongside these projects the Council wishes to offer greater support to local Members ensuring they have access to development services and local information that meets their needs and allows them to develop their role as 'Community Councillors'.</p> <p>In order to ensure the appropriate resourcing of the Witham Neighbourhood Level Community Budget and delivery and programme management of the localism framework, the Cabinet are asked to support the virement of funds from earmarked reserves of £50,000 per annum over two years. A member-led group, the Localism Board, is proposed to provide co-ordination, guidance, challenge and programme management to the Council's localism framework.</p>		

Decision:

Cabinet are asked to:

- 1) Approve the approach to the localism framework as outlined in the report, with approval given to proceed with the following projects:
 - Service Level Agreement with Witham Town Council to explore the transfer of services and assets to local management;
 - Witham Neighbourhood Level Community Budget;
 - Input into the Whole Essex Community Budget project where it impacts on the district's residents and area;
 - Establish processes to deal with new Community Rights in the Localism Act.
- 2) Approve the virement of funds from earmarked reserves of £50,000 per annum over two years to support the work programme outlined above.

Purpose of Decision:

To ensure the Council is prepared for the new legislative provisions contained in the Localism Act 2011 and to seek Cabinet support for a broader localism framework and specific projects.

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

Financial:	It is estimated that additional funds in the region £50,000 per annum over two years will be required to support this work programme within the localism framework and specific projects, e.g. Witham Neighbourhood Level Community Budget. These funds can be met by a virement from earmarked reserves. Staff resource will also be allocated from the existing Community Services team and across the organisation as and when required.
Legal:	The Localism Act 2011 sets out specific legal duties and responsibilities which the Council must prepare for and carry out.
Equalities/Diversity	This work programme will support the Council's priority of supporting the vulnerable as well as flourishing communities. Equality impact assessments will be undertaken for specific projects.
Customer Impact:	The impact of the Localism Act 2011 and other localism proposals will have varying impacts on customers. Specific customer impact will be considered in relation to all projects developed under the programme.

Environment and Climate Change:	None at this stage
Consultation/Community Engagement:	This programme will strengthen and co-ordinate the Council's community engagement work and proactively engage communities through the work of the Rural Community Council of Essex (RCCE).
Risks:	<p>The Localism Act places duties and responsibilities on the Council; failure to deal with enquiries or bids appropriately could lead to a legal challenge.</p> <p>The Council's reputation could be damaged if its response to the Localism Act and community engagement is not co-ordinated, consistent or transparent across the organisation.</p> <p>The ability of the Council to offer its residents good value for money could be jeopardised as parts of services are transferred to communities or other parties to run; this fragmentation could increase unit costs and reduce the viability of services remaining within the authority.</p> <p>In addition, there is also a risk of inconsistent service standards across the district as others take on and run services.</p> <p>The Council needs to ensure that vulnerable people are protected and as there is a risk of small minorities within communities having disproportionate influence.</p> <p>(Please note: Community engagement, including the Localism Act, is also on the Council's Strategic Risk Register.)</p>
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1.0 Purpose of Report

- 1.1 The purpose of the report is to update Cabinet on the Open Public Services White Paper and the provisions of the Localism Act 2011 for which the Council must make appropriate preparation. The report also outlines a proposed programme of localism focused projects. This supports the Council's Corporate Strategy priorities under People, with flourishing communities and supporting the vulnerable. The Cabinet is asked to make the necessary resources available to facilitate the Witham Neighbourhood Level Community Budget and the localism programme management.

2.0 Open Public Services

- 2.1 The Open Public Services White Paper published in July 2011 sets out the case for opening up public services markets, giving service users more control, and encouraging innovation to strive for higher quality public services.

- 2.2 The approach was based on five principles:

- Increasing choice;
- Decentralisation of public services to the lowest appropriate level;
- Opening up public services to a range of providers;
- Fair access to public services;
- Public services accountability to users and to taxpayers.

- 2.3 The Open Public Services White Paper classified public services into three categories:

- Individual services – personal services used on an individual basis (e.g. education, social care).
- Neighbourhood services – local services provided on a collective basis (e.g. community safety)
- Commissioned services – local and national services that cannot be devolved to individuals or communities (e.g. tax collection, prisons, welfare to work).

- 2.4 The Government published an update to the Open Public Services White Paper entitled Open Public Services 2012 on 30 March. This provided an update to the Government's progress against the original principles set and commitments made.

- 2.5 Open Public Services 2012 also launches a consultation on specific proposals for a 'Right to Choice', setting out:

- An independent review of barriers to choice;
- A "call for evidence" on whether there is a need to enshrine in legislation a "right to choice";
- Establishing 'choice champions' to promote choice and scrutinise providers and commissioners;
- Create "choice frameworks" to outline and raise awareness of choice in particular services, including education and health;
- Work with ombudsmen to examine how they can be effective in providing redress and deal with complaints on choice.

2.6 The Choice Frameworks will:

- set out what choices should be available, as detailed in current policy or legislation;
- set out who will be responsible for providing this choice;
- set out (or signpost) relevant quality standards, inspection regimes and licensing requirements;
- signpost sources of information to support people to make informed decisions; and
- detail how people can make a complaint should they not be able to exercise choice as set out in the Choice Framework.

2.7 Depending on the result of the consultation, the impact of the Choice Framework on council services may need to be considered at a future date.

2.8 The original Open Public Services White Paper also set out clear principles and proposals in relation to neighbourhood services. These have subsequently been enshrined through the Localism Act 2011.

3.0 Localism Act

3.1 The Localism Act was enacted in November 2011 and its provisions are being implemented in a phased programme. The Act represents the Coalition Government's intention to shift power from central Government towards local people. The Act includes new freedoms and flexibilities for local government; new rights and powers for individuals and communities; a reformed planning system; and reform to ensure more local decisions about housing.

Main provisions on freedoms and flexibility for local government

General power of competence

3.2 A 'general power of competence' was enacted in April 2012 for local authorities. Local government power and responsibilities are defined by legislation and traditionally authorities have been limited to acting only where the law was clear and where they were able to do so without challenge in the courts. The Localism Act has reversed this presumption and now gives local authorities the legal capacity to do anything that an individual can do that is not specifically prohibited.

Abolition of the Standards Board

3.3 The Act has abolished the Standards Board regime and made provision for a simpler system with local authorities drawing up their own codes of conduct. Braintree District Council adopted its New Standards Regime and Code of Conduct in June 2012.

Predetermination

3.4 The Localism Act has clarified the rules on predetermination, making it clear that local councillors should be able to play a full and active part in local discussions without being liable to legal challenge.

Other provisions

- 3.5 The Localism Act also makes provision for cities outside London to have directly elected Mayors if local communities vote in favour in referendums. The Act also allows for the transfer of local public functions from central government and quangos to local authorities, combined authorities and economic prosperity boards. Councils can also adopt innovative area governance arrangements, scrutiny of other local public bodies, and their own executive governance arrangements.
- 3.6 The Act also requires local authorities to publish a statement on pay policy which has been done by Braintree District Council. In addition, if an authority wishes to raise council tax beyond a level approved by Parliament, the Council must hold a referendum to get approval from local voters.

4.0 Neighbourhood Planning

- 4.1 The Localism Act seeks to make the planning system clearer and abolished the requirement for regional strategies, whilst making provision for local authorities and other public bodies to work together on planning issues reflecting shared interests.
- 4.2 The core of the Government's proposals is on neighbourhood planning, introducing a new right for communities to draw up a neighbourhood plan. The provisions on the Localism Act and the regulations for neighbourhood planning came into force on 6 April 2012.
- 4.3 The National Planning Policy Framework published in March 2012 sets out that parish councils and neighbourhood forums can use neighbourhood planning to:
- set planning policies through neighbourhood plans to determine decisions on planning applications; and
 - grant planning permission through Neighbourhood Development Orders and Community Right to Build Orders for specific development which complies with the order.
- 4.4 Neighbourhood plans must conform to the strategic policies of the Local Plan, must not undermine it, and should not promote less development than set out in the Local Plan.
- 4.5 Neighbourhood planning can be carried out by town and parish councils or neighbourhood forums. These forums can be formed by voluntary and community groups or residents' organisations. The Council designates which is the most appropriate neighbourhood forum in areas without parishes.
- 4.6 The Neighbourhood Development Plans (general planning policies for the development and use of land in a neighbourhood) or Neighbourhood Development Orders (neighbourhood plans permitting development in full or outline without the need for planning applications) can only take effect if there is a majority of support in a referendum of the neighbourhood. The Council (as the local planning authority) will be under a legal duty to bring them into force.

4.7 In Open Public Services 2012 the Government also set out a commitment to:

- consult by the summer on detailed proposals to establish new Neighbourhood Councils
- develop with the Local Government Association (LGA) and National Association of Local Councils (NALC) models of neighbourhood councils by summer 2012
- create ways for communities to record their experiences, identify obstacles and develop social networks.

5.0 Community Right to Challenge

5.1 Local authorities have increasingly been seeking to adopt new and innovative ways of designing, delivering or commissioning value for money services. The Localism Act recognises that local voluntary and community groups, parish councils and local authority employees may wish to express an interest in taking on the running of a local authority service. The Council must consider and respond to this 'challenge', and where it accepts it, must run a procurement exercise for the service in which the challenging organisation can bid.

5.2 Relevant bodies include voluntary or community groups, charitable bodies or trusts, parish councils, two or more Council employees, or other persons or bodies specified by the Secretary of State. Partnerships can also be formed and may involve non-relevant bodies. It is expected that relevant bodies may also wish to join a joint venture.

5.3 The community right to challenge only applies to the provision of services, and not to the delegation of council functions. Government guidance provides the example of planning where Section 70(1) of the Town and Country Planning Act 1990 gives powers to local planning authorities to grant or refuse planning permission. This is a function. However, the delivery of planning functions, ie the processing of a planning application, is a service, and this could be delivered by the Council or by a third party on behalf of the Council. The right to challenge also applies to jointly commissioned/provided services and shared services, though different rules apply to services where a local authority works with an NHS body. Services commissioned on behalf of an NHS body are not subject to the right.

5.4 The Council must decide during which periods of time expressions of interest can be submitted for a relevant service and publicise this. The Council will also need to decide the information required in an expression of interest including elements such as the promotion or improvement of social, economic and environmental well-being, how service user need will be met, and what level of employee engagement has taken place.

5.5 The Council must also specify the maximum period it will take to notify the relevant body of its decision on an expression of interest and publicise this. Expressions of interest may only be rejected on one or more grounds specified in the Regulations. The Council may also ask for an expression to be modified. The Council must also specify the period of time between when an expression of interest is accepted and a procurement exercise starts.

5.6 The Community Right to Challenge provisions will be commenced when the Regulations under the Localism Act come into force. This is expected to be

6.0 Community Right to Bid (assets of community value)

- 6.1 The community right to bid (assets of community value) will give local communities the opportunity to bid to buy and take over the running of assets that they value in their neighbourhood. The right could be used to buy assets owned by the council or other public body, or a private company or person. Such assets could include a village shop, community centre, children's centre, library building or public house.
- 6.2 The right to bid can be used by:
- Local voluntary or community groups that are incorporated (have a separate legal status from its members)
 - Local voluntary or community groups that are not incorporated but have at least 21 members who are locally registered to vote
 - Parish and town councils
 - Neighbourhood forums
- 6.3 A building or piece of land will be considered to have community value only if the use of the land or building, now or very recently, furthers the social wellbeing or cultural, recreational or sporting interests of the local community. The regulations to be set out by the Secretary of State will provide more detail on assets that will be exempt from listing and who has the power to make the exemption.
- 6.4 The Council will be required to maintain a list of assets of community value that the local community has nominated. When any of these assets come up for sale or change ownership a moratorium period will be triggered during which the asset cannot be sold. This period allows time for community groups to develop a proposal and raise the capital to bid for the property when it comes onto the open market at the end of that period.
- 6.5 During a moratorium period the owner cannot conclude the sale of the asset. There are two moratorium periods, both of which start from the date the owner of the asset notifies the local authority of their intention to sell the asset:
- 'Interim moratorium period' – six week period during which a community group wishing to bid for the asset must notify the local authority that they wish to be considered as a potential bidder. If this does not happen the owner can proceed to a sale.
 - 'Full moratorium period' - six month period during which a community group can develop a proposal and raise the capital required to purchase the asset.
- 6.6 There is also a 'protected period' of 18 months from the same start date to protect the owner from repeated attempts to block a sale. There are also some circumstances when the disposal of an asset that is listed as having community value can be exempt from the regulations concerning the moratorium period. These include where the disposal is a gift, where it is made between members of the same family, or where the land or building being disposed of is part of a bigger estate. The sale may also be exempt from the moratorium period if it is a building or piece of land on which a going-concern business is operating, provided that the sale is to a new owner to

continue the same business (eg, a pub is sold to a new owner to continue running it as a pub).

- 6.7 The Council will need to decide on the format of the 'assets of community value' list, and any modifications made to entries on the list, or removal of an entry from the list. A community nomination must come from a parish council, a community council or a locally connected voluntary or community body for land or buildings in the nominee's local area. The Council must notify the nominee of the decision it has taken on adding the asset, and where the nomination is unsuccessful must provide an explanation. The Council must also notify the landowner, the occupier and the community nominee of any inclusion or removal of an asset to the list. A landowner can ask for the inclusion of the asset to be reviewed and there will be a process for an appeal to an independent body. The Council must also maintain a list of 'land nominated by an unsuccessful community nomination'. If land is included in the list of assets of community value it will remain on the list for five years.
- 6.8 Regulations on the community right to bid (assets of community value) are expected in the autumn.

7.0 Community Right to Build

- 7.1 The Localism Act also permits community organisations to bring forward a 'community right to build order'. This allows parish councils and 'community organisations' to bring forward smaller-scale development on a specific site, without the need for planning permission. If a parish council does not exist for the relevant area, then groups of people must form a 'community organisation' which is a corporate body and meets certain governance requirements. Communities can also use property developers or enter into partnerships with a housing association.
- 7.2 Developments could include family homes to sell, affordable housing for rent, sheltered housing for older local residents, low cost starter homes, shops, businesses or local facilities such as a village hall or community centre. The benefit from this type of development would stay within the community to be used for the community's benefit. Examples would include maintaining affordable housing stock or providing and maintaining local facilities such as playgrounds and village halls. Community right to build orders have a limited number of exclusions. For example proposals must fall below certain thresholds so that an Environmental Impact Assessment is not required. Proposals are also subject to testing by an independent person and a community referendum.
- 7.3 The Community Right to Build became law on 6 April 2012 as part of the Neighbourhood Planning (General) Regulations. The Government has provided £17.5m through the Homes and Communities Agency between 2012/13 and 2014/15 to help communities with up to 90 per cent of the costs of preparing the development proposal and taking forward a Community Right to Build Order. One-off early achievement payments of up to £2000 are also being offered by Government to applicants who submit a valid Community Right to Build Order to the Council by 31 March 2013.

8.0 Community Infrastructure Levy

- 8.1 The Act makes changes to the Community Infrastructure Levy (CIL) which allows local authorities to set charges which developers must pay when bringing forward new development in order to contribute to new or enhanced services and infrastructure. Traditionally the CIL provided for new or enhanced infrastructure. The Localism Act now allows local authorities greater flexibility in setting the rate paid by developers and also allows for it to be spent on other things than infrastructure in the neighbourhood.

9.0 Next Steps

- 9.1 The Open Public Services White Paper and Localism Act 2011 set out a significant localism agenda with new legislative provisions and responsibilities which the Council must respond to.
- 9.2 The Council's own policy framework is guided by the Sustainable Community Strategy 'One District-One Vision; *A Strategy for People and Places in the Braintree District to 2026*' and the Corporate Strategy 2012 to 2016.
- 9.3 Existing priorities within the People theme within the Corporate Strategy include:
- Help communities take responsibility for their local area;
 - Increase active participation in volunteering activities;
 - Move towards locally managed services;
 - Support communities through the Mi Communities initiative.
- 9.4 In order to ensure that the Council is adequately prepared to meet the legal requirements of the Localism Act, and to take forward priorities within the Corporate Strategy, it is proposed to make provision for the programme management of a number of localism related work streams with a member-led group, the Localism Board, to provide co-ordination, guidance, challenge and programme management to the Council's localism framework.
- 9.5 The work streams within the remit of the Localism Board are illustrated in the diagram below. This will also include co-ordination of the Council's involvement with the Whole Essex Community Budget pilot.



9.6 In order to set up the programme management co-ordination and to progress projects within the Witham Neighbourhood Community Budget it is proposed that the Cabinet agree to make available additional resources from earmarked reserves (details given in financial section). Staff resource will also be allocated from the existing Community Services team and across the organisation as and when required.

9.7 Detail on all projects within the localism programme will be developed once resources have been assigned and allocated. Specific reports will be required on individual elements of the Localism Act. The management and monitoring of the programme will be through the Council's corporate performance management system and reported quarterly to Cabinet.

10.0 Witham Neighbourhood Level Community Budget

10.1 In November 2011 the Council, along with other partners in the Braintree area, developed an expression of interest, submitted to Government, for a Witham Neighbourhood Level Community Budget (**attached as Appendix A**). Although the bid was unsuccessful to the pilot programme, the Council wishes to progress the project which will address a range of issues focused on young people, which were identified by the Witham community. These outcomes include:

- Addressing the rising challenge of young people not in education, employment or training;
- Increase worthwhile activities for young people (to reduce youth offending and anti-social behaviour);
- Reduce the number of children living in poverty;
- Improve mental and physical health;

- Improve the retail and business environment, stimulating the economy and providing a better environment for SMEs;
- Improving the built environment and infrastructure.

10.2 The scope of the project is significant and will look to:

- Centre a package of local services on improving the lives and prospects of young people in Witham; and
- Pool public sector budget resources, community held assets and expand voluntary action and social finance.

10.3 It is anticipated that a neighbourhood Community Budget for Witham will be developed and agreed by partners in 2012/13.

11.0 Whole Essex Community Budget Pilot

11.1 The Whole Essex Community Budget Pilot led and coordinated by Essex County Council is one of four whole place pilots nationally that bring together a broad range of partners to agree common outcomes, pool resources and join up activities to achieve those outcomes. The key elements are to improve quality, promote the efficient use of public money, choice, localism, and enable civil society and the prevention of social and economic problems.

Domain	Families with Complex Needs	Economic Opportunity	Community Safety	Health and Wellbeing
Key projects	Use Family Budgets	Create an Essex Skills System	Reduce Reoffending	Long Term Conditions/Older People
		Define an Infrastructure Strategy	Reduce Anti-Social Behaviour	Dementia
		Develop an Integrated Transport System	Reducing Acquisitive Crime	All Age Disability
		Strengthen Business Support Infrastructure	Reduce Domestic Abuse	Right to Control
Enabling projects	Cost Benefit Analysis			
	Funding Flow Analysis			
	Next Generation Investment Models			
	Asset Management			
	Data Sharing			
	Workforce			
	Housing			

11.2 Officers and Members of the Council are involved in the Whole Essex Pilot both in relation to the project governance, and also in relation to the budgets and services to be included or pooled as part of the process.

11.3 It is anticipated that there will be significant learning arising from the Whole Essex Community Budget, and from the national community budgeting pilot schemes which can be applied to the Witham Neighbourhood Level Community Budget.

12.0 Transfer of Assets and Services

- 12.1 In recent years the Council has taken this agenda forward with the transfer of some assets and services already completed. Examples of this are 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 (BDVSA). Both transfer programmes have been successful.
- 12.2 To take this forward, the Council wishes to work with Witham Town Council to develop a service level agreement to explore how more local services and assets can be transferred to local management arrangements in a co-ordinated manner.

13. RCCE Work and Local Member Engagement

- 13.1 In order to more effectively support the localism agenda and neighbourhood planning the Council has established a service level agreement with the Rural Community Council of Essex (RCCE) to provide support for town and parish council and wider community engagement and capacity building support for neighbourhood planning.
- 13.2 The Council also wishes to offer greater support to local Members ensuring they have access to development services and local information that meets their needs and allows them to develop their role as 'Community Councillors', which many Members are already doing. For example, local Members are:
- local leaders in their communities;
 - sponsors for Mi community scheme projects;
 - aware of their communities and their needs;
 - engaging with people and organisations at a local level; and
 - the conduit for resolving local issues.
- 13.3 To increase support to Members and build on the Charter for Member Development, member development services will be managed by the Human Resources and Organisational Development Manager; after a transition phase, this will be effective from the 1st September 2012.

Cabinet Response to the Recommendations from the Overview and Scrutiny Committee's Report on Transport and Access to Health Services across the District		Agenda No: 9a
Corporate Priority: Public Services; Supporting Vulnerable People; Safe and Healthy Living Portfolio Area: Partnerships Report presented by: Cllr David Bebb Report prepared by: Cllr David Bebb		
Background Papers: Overview & Scrutiny Committee Report, Cabinet 9 th May 2012		Public Report
Options: To support or not the proposed response.		Key Decision: No
Executive Summary: Overview <p>Cabinet thanks the Overview & Scrutiny Committee for its considered and timely report on Transport & Access to Health Services across the District. It is indeed opportune in relation to significant changes afoot within the NHS. This, of course arises from the newly passed Health and Social Care Bill establishing the National Commissioning Board, setting up Clinical Commissioning Groups (CCGs), the main decision making group for the commissioning of health services locally, Public Health transferring to local authorities, and setting up of Health and Wellbeing Boards, bringing various bodies together.</p> <p>Nationally, the NHS is required to find efficiencies of £20 billion over the next 5 years. This equates in Mid Essex to efficiencies of around £114 million needing to be found. As part of measures to achieve the required efficiencies, local PCTs are being restructured including the merger of the West Essex, Mid Essex and North East Essex PCTs leading to the formation of NHS North Essex.</p>		
Response to specific recommendations <u><i>Recommendations 1 and 2 from the Overview and Scrutiny Committee :</i></u> 1. <i>The Council encourages NHS Mid Essex PCT (now CCG) to commission or otherwise develop the provision of out-patient services in Witham possibly using the Oncology Services that has been in place at Douglas Grove Surgery,</i>		

Witham, as a model.

2. *The Council works in partnership with NHS Mid Essex to develop the provision of further GP – led community based patient services in Witham such as minor surgery and diagnostics, and that the Council reviews its available land in Witham with a view to identifying a site for the possible provision of those services.*

Recommendations 1 and 2, are indeed financially challenging to set up in terms of the required NHS savings, but on the other hand could well fit into the proposed new policy of embracing smart ways of working by minimising hospital admissions and greater emphasis on accessing local health facilities. We have forwarded copies of the O & S Report to both the Chairman of the Mid Essex Clinical Commissioning Group (CCG) and also to the Chairman of NHS North Essex.

The Chairman of the Mid Essex Clinical Commissioning Board (CCB) responds:

“Response to Recommendation 1: Whenever it is clinically appropriate and cost effective the CCG will consider the commissioning of services in community settings, particularly in centres of population and where population growth is anticipated.”

“Response to Recommendation 2: As a CCG we will encourage growth of primary care based services; under the new configuration of health service structure, the National Commissioning Board Local Office will be responsible for the development of healthcare premises, however we will work closely with them on the planning of future premises to maximise local opportunities”

The CCB Chairman also comments: “ ... this is a transitional year between the PCT and CCG and we do need to spend time making sure that we work effectively with partner organisations to get the best outcomes for our population.”

Cabinet supports these comments made by the Chairman of the CCB.

Recommendations 3, 4 and 5 from the Overview and Scrutiny Committee

3. *The Council reviews how it might further promote the availability of the Community Transport Service.*
4. *The Council encourages Essex County Council and Essex PCTs in their efforts to review the proposed provision of an Essex wide Health and Adult Social Care Transport and One Stop Call Centre Services with the aim of finding a suitable cost effective way of providing the service.*
5. *Essex County Council explores the expansion of the Hospital Hopper Service to include more areas in the North of the district to include transport to Colchester General Hospital and also considers, together with Suffolk County Council the expansion of Hopper Routes to West Suffolk General Hospital and to Broomfield Hospital for Witham and the immediate catchment area.*

Cabinet supports the recommendations relating to further promotion of our excellent Community Transport Service and to encourage Essex County Council (ECC) & Essex PCTS in their efforts to reattempt to provide an Essex wide Health and Adult Social Care Transport service.

Cabinet also encourages ECC to explore the extension of the Hospital Hopper

Service in more areas in the North of the District, although it is acknowledged that this will require additional funds.

Recommendations 6 and 7 from the Overview and Scrutiny Committee

- 6. The Mid Essex Clinical Commissioning Group be supported in its proposals to increase the delivery of more health services locally in the district including chiropodist, orthotics and podiatrist services.*
- 7. NHS Mid Essex PCT been encouraged to develop their proposed "Care Home Dashboard" to provide information on care home use of hospital services with the potential to assist in moving towards more efficient use of hospital services by care homes and in turn, allow more home residents to avoid hospital visits and remain in familiar surroundings.*

Cabinet will be pleased to further encourage the Mid Essex CCG in its proposals to increase more local delivery of services such as chiropodist, orthotics and podiatrist services, as well as encouraging better utilisation of hospital beds working more dynamically with care homes.

Recommendation 8 from the Overview and Scrutiny Committee

- 8. The Committee recognises the value of Village Agents in identifying and supporting those vulnerable people in their communities and therefore recommends that Essex County Council be encouraged to continue the Village Agent service.*

Finally, Cabinet encourages ECC to review the impact of the Village Agents scheme and if value is demonstrated, Cabinet encourages ECC to continue its support for this scheme.

Decision:

Cabinet approves this response and delegates the actions outlined to the Corporate Director to take forward.

Purpose of Decision:

To consider and respond to the recommendations made by Overview and Scrutiny Committee.

Corporate implications	
Financial:	None
Legal:	None
Equalities/Diversity	The services outlined in this report provide important support to vulnerable groups in order to access health services and addressing health inequalities across the district.
Customer Impact:	Access to health services has a significant impact on customers and BDC's services such as community transport, play a vital role in providing good access.
Environment and Climate Change:	None
Consultation/Community Engagement:	Health partners have been consulted.
Risks:	Not applicable
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Overview and Scrutiny Committee - Scrutiny of Local Highway Liaison		Agenda No: 9b
<p>Corporate Priority: We deliver excellent, cost effective and valued services</p> <p>Report presented by: Councillor James Abbott, Chair of Local Highway Liaison Task & Finish Group</p> <p>Report prepared by: Paul Partridge, Head of Operations</p>		
<p>Background Papers:</p> <p>Overview & Scrutiny Meetings 13 July & 12 October 2011 Report to Cabinet 22 March 12 and Council 11 June 2012.</p>		Public Report
<p>Options:</p> <p>N/A</p>		Key Decision: No
<p>Executive Summary:</p> <p>At its meeting on 13 July 2011, the Overview & Scrutiny Committee agreed that a Task & Finish Group be established to scrutinise mechanisms for local highway liaison, from identification of issues and problems, through to completion of highway projects and repairs. The Group, led by Cllr. James Abbott, had its first meeting on 4 January 2012 and met six times in total.</p> <p>As part of their review, the Group conducted scrutiny review meetings with Essex County Council Highways (ECC) and the Highways Agency (HA) and consulted with key stakeholders and the public. Feedback was fairly consistent and reflected the concerns that had prompted the review. Of greatest concern was the fact that ECC's customer service system lacks named officers, has a confusing reference system, no clear feedback mechanism and responses can reflect a lack of local knowledge. Other issues included the slowness with which ECC deals with routine highways issues and less effective liaison with parishes since the restructuring at ECC. It was also clear that there is confusion amongst customers as to which agency is responsible for which service and it was felt that this could be addressed by greater clarity in the public information provided by BDC, ECC and the HA.</p> <p>There were also comments in support of both the HA and ECC's quality of joint working on strategic issues and planning application responses and the quality of ECC's Rangers Service.</p> <p>Whilst joint working between BDC, ECC & and HA is improving, it was felt that further work would improve service delivery, efficiency and value for money.</p> <p>Finally, the Group reinforced the need for Parish/Town Councils to be directly involved in matters considered by the new Local Highways Panel to ensure that there is effective local engagement with Essex County Council on highways matters within</p>		

the District. Cabinet considered this matter on 9 May 2012 and Members agreed that the Panel should comprise 4 County Council Members, 4 District Council Members and 4 Parish and Town Councillors nominated by the Braintree Association of Local Councils.

The Group also highlighted the benefits to be gained from the Local Highways Panel commenting on new Traffic Regulation Order requests before these are determined by the North Essex Parking Partnership.

A comprehensive report detailing the Group's findings was presented to Full Council on 11 June 2012. In considering the report, the following issues were highlighted:-

3. Several Members welcomed the reported;
4. Essex County Council and the Highways Agency have Service Agreements with contractors, although it was recognised that there are some issues in monitoring the satisfactory completion of works;
5. Concern was expressed at ECC's lack of consultation with District and Parish Councils, with the removal of cobblestones from Great Notley Village being cited as an example;
6. Greater clarity in public information as to "who does what" would be welcomed;
7. An improved tracking system to monitor progress on maintenance issues would also be welcomed;
8. Greater lobbying of the Highways Agency for better highway provision was outside the Terms of Reference of the Group.

Members supported the recommendations of the Group and agreed that the report be referred to Cabinet. (The full report was distributed with the Council agenda, but is included here at Appendix 1.)

The conclusions and recommendations of the Group are set out below.

CONCLUSIONS AND RECOMMENDATIONS

- 1. Improvements to the ECC Highways customer service system are needed. Multiple reporting of the same issues leads to a waste of public resources and to unnecessary inconvenience for customers.**

We recommend that ECC Highways:-

- (a) Makes revisions to the reference number system to make it simpler and more intuitive.
- (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).
- (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.
- (d) Publishes up to date service standards on its website and communicates these to BDC and Parish Councils.

- 2. The ECC intervention criteria for maintenance issues are too rigid and this, combined with the inefficient customer services system, can lead to long delays in basic maintenance issues being addressed.**

We recommend that ECC Highways:-

- (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.
- (b) Considers extending the principle of the existing Highways Ranger service to Parish Councils that are willing to carry out minor works at a local level.
- (c) Reviews and extends the role of the existing Highway Ranger service to cover as many of the locally reported issues as possible that ensures a speedy and quick completion of all minor works.

- 3. Under the previous ECC highway structure, the Mid Essex Area that covered Braintree had a designated team of Officers with local knowledge. There needs to be a named ECC officer, preferably working for at least part of the week, based in Braintree District, who would be a point of contact for Parish Councils and BDC Members on local highways issues, including for local site meetings.**

We recommend that ECC Highways:-

- (a) 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.

- 4. The new arrangements for the Braintree Local Highways Panel (as proposed) raise a number of concerns, including the potential elimination of the direct involvement of Parish and Town Councils, further reappraisal of already agreed local schemes and potential barriers to openness. Whilst it is accepted that ECC Members should be on the Panels, the direct involvement of town and parish councils is considered vital. ECC stated in evidence that local safety and improvement schemes should be led by parishes. The Highways Panel is now the primary delivery mechanism for local schemes.**

The Local Highways Panel’s new Terms of Reference covers a broad range of highway issues including the promotion of parking restrictions to address serious safety or congestion issues. The Panel can make suggestions in relation to Traffic Regulation Order requests, albeit the final decision rests with the North Essex Parking Partnership.

We recommend to BDC Cabinet that the local arrangements for the Braintree District should include:-

- (a) An equal membership of 4 County, 4 District and 4 Town/Parish representatives on the Braintree Local Highways Panel.
- (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.

- (e) The Local Highways Panel or 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.

5. There needs to be further joint working between ECC, BDC and the Highways Agency to improve service delivery, efficiency and value for money.

We recommend that:-

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

6. There needs to be greater clarity in public information as to “who does what” in highways roles to remove confusion currently experienced by service users.

We recommend that:-

- (a) 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.

Decision:

Cabinet is invited to receive the Overview & Scrutiny Task & Finish Group's report and recommendations on Local Highways Liaison and bring a response to Cabinet in September 2012.

Purpose of Decision:	
To improve the customer experience in relation to local highway liaison.	

Corporate implications	
Financial:	None
Legal:	None
Equalities/Diversity	None
Customer Impact:	The aim of the study is to improve the customer experience for those reporting highway issues.
Environment and Climate Change:	None
Consultation/Community Engagement:	Consultation has been carried out with relevant internal and external stakeholders e.g. public invitation to comment, BDC Planning & Waste Services, District Councillors, Parish/Town Councils, the emergency services, bus operators, and the North Essex Parking Partnership.
Risks:	Not applicable
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Recommendations from the Governance Committee, 28th June 2012	Agenda No: 9c
Background Papers:	Public Report

Minute Extract:

GOVERNANCE COMMITTEE, 28TH JUNE 2012

10. ANNUAL GOVERNANCE STATEMENT 2011/12

INFORMATION: In considering the report, members agreed that at paragraph 10.2, improvements/developments identified, should include extending the governance arrangements to recognise the increased use of commissioning of services. Members also agreed that the section of the report on Core Principle 5, Developing the Capacity of Members and Officers, should include a reference that members of regulatory committees are required to undertake specific appropriate training.

DECISION: That subject to inclusion of the above comments, that it be recommended to Cabinet:

1. That the Annual Governance Statement for 2011/12, as detailed in Appendix A be agreed for signing by the Leader of the Council and the Chief Executive.
2. That the updated Local Code of Corporate Governance as detailed in Appendix B be agreed.

REASON FOR DECISION: To evidence that the Council has conducted a review of the effectiveness of its system of internal control for 2011/12, ensure that the Annual Governance Statement for 2011/12 is correct and in order for Cabinet to approve and the Leader of the Council and the Chief Executive to sign.

Recommendations from the Local Development Framework Sub-Committee – 23rd May 2012 – National Planning Framework	Agenda No: 9d
Background Papers:	Public Report

Minute Extract:

LOCAL DEVELOPMENT FRAMEWORK SUB-COMMITTEE – 23rd MAY 2012

5 NATIONAL PLANNING POLICY FRAMEWORK

INFORMATION: Consideration was given to a report on the new National Planning Policy Framework (NPPF) and the key implications for planning in the Braintree District. The NPPF had replaced previous Government planning policy guidance with a much smaller document and contained some new guidance, including a presumption in favour of sustainable development and a requirement to grant permission where a plan was absent, silent, or where relevant policies were out of date.

The Government had published the final version of the NPPF on 27th March 2012. This had replaced, with immediate effect, various Government Planning Policy Guidance Notes and Planning Policy Statements on specific subjects, with the overriding aim of streamlining guidance and encouraging growth.

The Council had one year to determine which, if any, parts of the Core Strategy should be updated to reflect the NPPF, and would be required to take account of the new guidance in the preparation of the Site Allocations and Development Management Plan. The Council would also have to consider whether guidance contained in the former Regional Plan and National Planning Policy Guidance should be incorporated within the Plan.

The NPPF proposed that Councils should consider applications for housing in the context of a presumption in favour of sustainable development and relevant policies for the supply of housing would not be considered up to date if a Council could not demonstrate a five year supply of deliverable sites. It was therefore important that Braintree District Council continued to demonstrate that a five year supply existed. The NPPF required the Council to identify an additional 5% of housing land as a buffer to ensure delivery against target. However, the buffer could be identified from readily available sites, which were forecast to be built after the five year period. The Council would be required to incorporate the new policy on the presumption in favour of sustainable development within the Site Allocations and Development Management Plan.

DECISION: That it be **Recommended to Cabinet and Council** that:-

- the publication of the National Planning Policy Framework be noted.
- an assessment of the Local Development Framework Core Strategy and the Local Plan Review be carried out to establish which policies, if any, are in conflict with the National Planning Policy Framework and to consider proposals for the amendment of such policies, as appropriate, within the transitional period.
- the provisions of the National Planning Policy Framework be taken into account in future work, including in development management and in drawing up development management policies for the Local Development Framework.

Cabinet Member Decisions made under Delegated Powers	Agenda No: 10b
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:	
All delegated decision taken by individual Cabinet Members are required to be published and listed for information on next Cabinet Agenda following the decision.	
Since the last Cabinet meeting the following Cabinet Members have taken delegated decisions:-	
Councillor Chris Siddall – Cabinet Member (Performance)	
Decision taken on 18th May 2012 - To agree and approve the award of the Council's vehicle Procurement and Maintenance Contract to Riverside Truck Rental Ltd with effect from 1 st April 2012 for an initial 7 year period up to 30 th April 2019 with an option to extend for a further 7 years up to an including 31 st march 2026.	
Councillor Wendy Schmitt – Cabinet Member (Place)	
Decision taken on 24th May 2012 - To agree and approve the use of S106 funding of £34,140 allocated to Gt. Notley Country Park to fund improvement works to the site.	
Decision taken on 24th May 2012 - To agree and approve the award of a Contract for the processing of dry recyclables and waste/recyclate haulage provision covering the period from 1 st April 2012 to 31 March 2017 as follows:	
<p>Lot 1 Braintree District Council Only – Award the haulage sorting, and reprocessing of co-mingled dry recyclables (excluding colour separated glass cullet) to Viridor Waste Limited for a period of 5 years from 1st April 2012 to 31st March 2017.</p> <p>Lots 3 and 4 – No award.</p>	

Decision taken on 24th May 2012 - To agree free all day (7am to 7pm) car parking at the following car parks in Braintree and Witham on Sunday 3rd June, Monday 4th June and Tuesday 5th June 2012.

Witham	Newlands Drive and Mill Lane
Braintree	George Yard MSCP, Causeway House (Sunday Only), Manor Street and Victoria Street.

Councillor Jo Beavis – Cabinet Member (People)

Decision taken on 8th June 2012 - To establish a Service Level Agreement (SLA) with the Rural Community Council of Essex (RCCE) for a two-year period commencing June 2012. The cost is in the region of £30,000 and this funding will be met from earmarked reserves as a one-off cost and will not impact upon base budget.

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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Investment in the Regeneration of Braintree Town Centre		Agenda No: 13b
Corporate Priority: Prosperity and Place Portfolio Area: Prosperity Report presented by: Cllr Lady Newton Report prepared by: Andrew Epsom		
Background Papers: Backing Braintree Strategy 2011 Backing Braintree Project Appraisal Impact Assessment – Final Report		Private Report – Para 3 Part 1, Sch 12 Local Government Act 1972
Options: To approve or not approve the purchase of 75 South Street, Braintree.		Key Decision: Yes
Executive Summary: <p>The Council completed the purchase of 77 South Street, Braintree on the 16th May 2011. Braintree District Council (BDC) has been working in partnership with Essex County Council (ECC) to bring forward a highway improvement scheme at the junction of South Street and Fairfield Road in Braintree.</p> <p>This part of South Street is restricted by traffic lights to a single traffic flow. The Council is therefore working with Essex County Council Highways to bring forward a highway improvement scheme in this location to provide traffic flow in both an easterly and westerly direction along South Street and an improved turning into Fairfield Road.</p> <p>This improvement would provide the opportunity to future proof the South Street/Fairfield Road junction providing options to improve the Braintree Town Centre traffic system.</p> <p>Funding has already been allocated through the Growth Area Fund (GAF) for the regeneration of South Street.</p> <p>An opportunity has now arisen to acquire 75 South Street, which will be required for a highway improvement scheme, and acquisition proposals are set out within this report for Members to approve.</p>		

Decision:

- 1) That Cabinet approves the acquisition of 75 South Street, Braintree on such terms as agreed with the Corporate Director in consultation with the Cabinet Member for Prosperity
- 2) That Cabinet approves the allocation of £190,000.00 of Growth Area Funding to cover the cost of the purchase including legal fees, stamp duty and any other related costs.

Purpose of Decision:

To facilitate highway improvements along South Street and Fairfield Road junction in Braintree. This improvement will assist in regenerating the town centre through strengthening this gateway into the town.

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

Financial:	As detailed within the report.
Legal:	The Legal Service will deal with the legal documentation relating to the purchase of 75 South Street, Braintree.
Equalities/Diversity	N/a.
Customer Impact:	Improved road network around Braintree to reduce congestion and provide better access to the town centre.
Environment and Climate Change:	This improvement is designed to reduce congestion and traffic queues.
Consultation/Community Engagement:	Consultation with Essex County Council Highways.
Risks:	1) Funding unavailable to implement highway improvement scheme.
Officer Contact:	Andrew Epsom
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1.0 Background

- 1.1 The Council is committed to investing in Town Centre and infrastructure improvements in Braintree to help support the long term viability and sustainability of the Town Centre.
- 1.2 The Council is currently working in partnership with ECC to bring forward a highway improvement scheme at the junction of South Street and Fairfield Road in Braintree. This is currently a “pinch point” that allows the single flow of traffic in both directions along South Street and is controlled by traffic lights. The highway improvement scheme is seeking to dual traffic flow along South Street and provide an improved junction with Fairfield Road.
- 1.3 The proposed scheme will have a positive impact in the Town Centre by reducing congestion and queuing traffic and providing better access to facilities.
- 1.4 Braintree District Council is working in partnership with Essex County Council to implement junction improvements at South Street and Fairfield Road Braintree. Essex County Council is currently producing a detailed design for this scheme.
- 1.5 A bus tracking diagram (A diagram showing what space a single deck bus needs to turn) provided by Essex County Council (**Appendix 1**) clearly shows that in order to provide sufficient space for a bus to turn into Fairfield Road from South Street, without conflicting with west bound traffic along South Street, would require the demolition of both 75 and 77 South Street. The demolition is also necessary to ensure that sufficient space for pedestrians can be provided.
- 1.6 The Council has allocated funding through the Growth Area Fund (GAF) for the regeneration of the South Street. This funding will be utilised for the acquisition of any property required to facilitate the highway improvement scheme and any other associated expenditure.
- 1.7 The Council now has the opportunity to acquire 75 South Street which adjoins the “pinch point” along South Street. ECC has indicated that the acquisition of this property is essential to enable the widening of the road in this location.
- 1.8 The vendors of 75 South Street have obtained three market appraisals for the property from local Estate Agents and all three appraisals have suggested a selling price between £150,000-£170,000. The Vendors currently have the property let out at £750 per month.
- 1.9 The vendors have, therefore, indicated that whilst they are willing to sell their property, they would need to agree an offer that takes into account the condition of the property and the potential loss of rental income.

2.0 Recommendation

- 2.1 That the Council enters into negotiations to purchase 75 South Street to facilitate highway improvements at the junction of South Street and Fairfield Road, Braintree.

- 2.2 That the sum of £190,000 is allocated as a budget from the Growth Area Fund to cover the acquisition of this purchase.