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A SPECIAL MEETING OF THE COUNCIL of the Borough of Castle Point will be held in the **Council Chamber, Council Offices, Kiln Road, Thundersley**, on **WEDNESDAY, 31st MAY 2023** at **7.p.m** and all Members of the Council, listed below, are hereby summoned to attend to transact the undermentioned business.

Councillors, Ms L. McCarthy-Calvert (The Worshipful the Mayor), B. Campagna ,(Deputy Mayor), A. Acott, Ms S.A Ainsley, J. Anderson, Ms H.L Barton-Brown, Ms N. Benson, B. Bizzell, D. Blackwell, Mrs. J.A Blissett, K. Bowker, M. Dearson, A. Edwards, Mrs. B. Egan, M. J Fuller, T.Gibson, W. Gibson, P.C. Greig, S. Hart, N. Harvey, G.Howlett, G.I. Isaacs, Ms D. Jones, J. Knott, R. Lillis, P. May, S Mountford, Mrs. S. Mumford, B.A. Palmer, J.A. Payne, Mrs. J Payne, Mrs. C.J Sach, R. Savage, T.F. Skipp, A. Taylor, D.J. Thomas, A. Thornton, Mrs. J Thornton, Walter, Mrs G Watson and G.St.J. Withers

Angela Hutchings
Chief Executive

AGENDA

PART I
(Business to be taken in public)

- 1. Apologies for absence**
- 2. Members' Interests**
- 3. Transforming Together – the Council's Modernisation Programme**
A report is attached.
- 4. Review of Electoral Arrangements - Update**
A report is to follow.

AGENDA ITEM NO.3

SPECIAL COUNCIL

31st MAY 2023

Subject: Transforming Together – the Council’s Modernisation Programme

1. Purpose of Report

To provide information to the Council regarding its transformation programme which will implement change and enable the modernisation of the Council

2. Links to Council’s Priorities and Objectives

This item has links to all Council priorities and objectives.

3. Recommendations

- (1)That the contents of this report are noted including that appropriate provision has been made in the Council’s budgets and reserves to fund the Transforming Together Programme.
- (2) That the Council agrees to the payment of legally required statutory and contractual severance in relation to any redundancies that may arise from the Organisation Redesign workstream which may exceed £100k.

4. Background

- 4.1 The Council needs to modernise to meet the needs and demands of its customers: the residents who live in the Borough, businesses who operate here and visitors who contribute to the growth of the local economy. This requires an agile, skilled, and motivated workforce driving service provision which is customer focused and future proofed for a digital age set against a backdrop of continuing financial austerity.
- 4.2 The Local Government Association (LGA) has undertaken a Decision Making Accountability (“DMA”) review of the Council’s workforce. DMA is a re-organisation tool which looks at the number of layers of management an organisation has and what it needs in order to deliver its aims and objectives in the most effective way. It also looks at the different layers of decision making so managers and employees feel empowered. In order to undertake the review, the LGA team used a proven approach that looked at the number of

management levels and number of staff who report to managers in each service area. The review was evidence based and involved conversation-style interviews with staff at all levels.

4.3 The LGA summarised the findings as follows:

The Council has a 'really good core of staff' who were keen to be involved in this review. When asked about what they wanted to see change, they said the following:

- Less bureaucracy - In some areas, there are too many layers (or tiers) of management so frontline staff are too far away from the Chief Executive role with up to 6 layers/tiers between them. Their feedback is that this leads to hold-ups, bottlenecks and staff working in silos. They report that it also means that decisions can be made too slowly and ineffectively, with what feels like lots of red tape and some things not being progressed. The ratio of front-line staff to managers is very low in places and this creates hierarchies that are not needed and a lack of resources on the front line.
- Teams working in silos - The structure has led to people working in 'silos' (working independently without sharing information to each other) and has also created confusion in terms of reporting lines and collaborative working.
- Information could be shared better - The customer journey is also affected by the website and where data cannot be shared due to the lack of accessibility and integration between IT systems, which means that some teams hold their own information, but do not have access to others. This has led, on occasion, to customers speaking to many officers and receiving conflicting advice. The website also does not let residents self-serve or ask their questions to the right team, and this creates lots of work being carried out again twice or sometimes three times.
- A fragmented culture - Staff have demonstrated in the main that they want change, but some have said that they do not feel confident enough, nor paid enough to make decisions. The Council's culture from the past also means that people work on their own projects rather than as One Council.
- Lack of understanding around roles and responsibilities - Staff do not have enough clarity around roles and responsibilities, and this leads to confusion and frustration because it impedes their day-to-day work and creates a duplication of tasks. Very often structure and service design does not start from the customer journey/ customer perspective and some areas appear to have been designed around individuals and common practice rather than the needs of the customer and the service, therefore, feels disjointed.
- Poor Communication - Staff told the LGA that they believe that the Council is old-fashioned in many ways and working in silos has led to poor communication. The Council needs to be more proactive around

communications and engagement with staff, to give staff the voice that they feel they are currently lacking.

4.4 A programme of activity has been devised to achieve this (the “Transforming Together Programme” or “TT Programme”) details of which are set out in this report.

5. Proposals

Vision and Strategic Objectives of the TT Programme

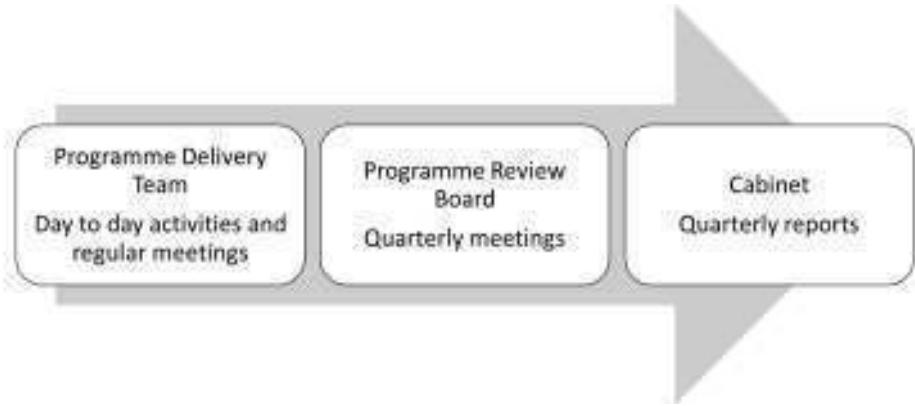
5.1 The vision for the TT Programme is to right size and shape the Council, defining and upskilling the workforce to ensure it has the right skills and capabilities at the right cost to establish the foundations for the Council to transform into a modern, customer focused and financially sustainable organisation. The Council’s customers are increasingly working in a digital way and expect the Council to do the same. The targeted use of digital technologies to enhance and improve the customer experience is a key component of the TT Programme along with defining the digital capabilities of the workforce to be effective in a digitally enabled organisation.

5.2 The TT Programme will establish the appropriate target operating model and supporting organisational structure to enable the Council to achieve its desire to modernise the way it delivers its services to residents:

- Improve customer service through “digital by default” interactions and dealings with the Council where services explore first opportunities for digital solutions provide to improve customer service and reduce costs of service provision e.g. by providing 24/7 access to certain services which can be delivered on-line and thereby freeing up capacity to respond to those who are not able to access on-line services.
- Introduce system and process improvements which will reduce the cost-of-service delivery; making sure the Council keeps services relevant and accessible to customers.
- Upskill and develop the Council’s employees to embed new ways of working and deliver value for money alongside a financially sustainable medium term financial strategy with a commercial approach to income generation wherever possible.

Governance for the TT Programme

5.3 Programme governance provides confidence that the TT Programme is being well managed. When governance is working well, it provides sufficient reporting and control activities to ensure that members and other stakeholders are kept informed of progress.



- 5.4 The Programme Review Board is a member-led forum, internal to the Programme which “owns” the Programme activity and oversees its delivery to time and to budget. It comprises the Leader, Deputy Leader, PFH Resources and PFH Environment. The Programme Review Board will meet quarterly to receive reports from the Programme Delivery Team as to progress and agrees when individual project activity is ready to take forward to formal decisions through existing corporate governance e.g. approval of invest to save or invest to earn business cases. The Programme Review Board will provide quarterly updates to the Cabinet.
- 5.5 The Programme Delivery Team is an officer forum which manages the delivery of the work underpinning the TT Programme. The Programme Delivery Team is led by a Senior Responsible Owner (SRO) supported by a Programme Manager, who is accountable for ensuring the TT Programme meets its objectives, delivers the projected outcomes, and realises the required benefits. The Programme Manager is also responsible for producing and maintaining central core programme documentation, including the project plan, risk register and benefits tracker. The Programme Manager is a contractor working 3 days per week (on average) and has been contracted for a total of 150 days via the East of England Talent Bank.
- 5.6 Membership of the Programme Delivery Team is comprised of the SRO, the resources who are leading the relevant workstreams, representatives from HR, finance and legal together with such additional officers as are required from time to time e.g. subject matter experts. The Programme Delivery Team will meet monthly and reports to the Programme Review Board.
- 5.7 The Council’s Staff Appointments and Review Panel also has a role to play in the wider corporate governance of the TT Programme in relation to strategic workforce/people matters. The TT Programme will report to the Panel to provide oversight of all organisation wide strategic people changes arising from the delivery of the Programme, for example, where there are aspects of organisational pay policy and strategy, Human Resources related policies and procedures, appointments of Chief Officers, changes to employee terms and conditions, or variations to the establishment where these affect a number or group of officers. The Panel will particularly oversee the roll out of job evaluation across the organisation.

The Workstreams

5.8 The TT Programme comprises four workstreams which run concurrently. These four workstreams are wholly interlinked and the achievement of these represents the success of the TT Programme.

1	Organisation Re-design Workstream	Review of the Council's current operating model using the LGA's decision-making accountability DMA Tool which will inform the organisation design (and job evaluation) of the Council, ensuring the workforce is the right size, shape, and cost to deliver its services.
2	New Ways of Working Workstream	Consolidation and redesign of service delivery solutions around the customer journey to give effect to the new organisation structure and improved financial sustainability and customer experience
3	Workforce Development Workstream	Cultural interventions for the workforce to manage the people side of change with a new values and behaviours focus and training and development arising from new ways of working
4	Communications & Engagement Workstream	Internal and external communications and engagement with stakeholders

Workstream 1: Organisation Re-design

5.9 Workstream 1 will identify the implications of workforce in relation to implementing a new organisation operating model based on the outcomes of the LGA's DMA work. This workstream will deliver the required HR processes to bring the new structure into existence – including role design, creation of role descriptions, job evaluation, staff consultation and trade union engagement. Working with the “business as usual” HR team, the updating of policies and other management practices will also be comprised within this workstream.

5.10 Due to the specialism of this workstream, a dedicated full-time HR professional resource has been retained to be the Workstream Lead on a 12-month fixed term contract basis. This resource is also fulfilling the SRO role.

5.11 The Council does not operate a job evaluation system, and this has led to the organisational structure evolving over time dependent on events and immediate

need rather than by design. This has resulted in a structure which is not up to date and where there are areas of the business which are under resourced or not resourced at all. The Council needs to ensure it has the right capacity and structure to meet the objectives of the TT Programme and so it must address these structural issues.

5.12 Once the new organisational structure is determined, the identified roles will need to be created via new job descriptions which in turn will require evaluation. The East of England LGA (“EELGA”) will work with the Workstream Lead to deliver this. It is proposed to use the NJC single status job evaluation scheme which is used in the majority of local councils. The scheme is jointly “owned” by the trade unions and employers, is deemed to be “equality proofed” and is free to use. Once the job evaluations are complete it will then be necessary to undertake a “pay to grade” exercise to set the pay and grading structure for the Council. The trade unions will be fully involved in the job evaluation project workstream with consultation and negotiation on the pay to grade proposals.

Workstream 2: New Ways of Working

5.13 Workstream 2 comprises the undertaking of service reviews of existing business systems and processes and delivery options to find opportunities to improve the customer experience and/or the customer journey through changing to new ways of working. This will include business process efficiencies which can be achieved through the deployment and use of digital technology. This should enable the Council to drive out cashable savings (e.g. reduction in total resource required) or non-cashable savings (e.g. release of resource for alternative tasks). The TT Programme and this workstream will establish this as a new process and embed this into the organisation as business as usual. This will establish a new way of working which will help to embed continuous improvement in the future.

5.14 The TT Programme will introduce a network of change agents – the Key Change Champions. The role of a Key Change Champion is to be an agitator for change – to challenge the way things are normally done and to bring new, fresh ideas to the review of services. They perform two roles. This first role is to lead their peers through change to become ambassadors for the TT Programme. The second role is to work with peers as part of the service review process. They will complete the service review template and ensure the design principles are adhered to. If an invest to save or invest to earn project opportunity arises (e.g. to implement a piece of software) they will work with the service area to develop business cases and optimise potential solutions by providing challenge, insight, and subject matter expertise.

5.15 The development of those business cases to create a more detailed analysis supported by available data, market analysis and technical input is carried out by another forum called the Check & Challenge Group. This is a “dragon’s den” of representatives from the service area management, HR, legal and finance and is led by the New Ways of Working Workstream Lead. Their role is to stress test the initial solution and turn it into something which could be a viable business case i.e. break it and fix it or dismiss it as unworkable and return it for rework. Their feedback may require further work to be done or allow the initial solutions to proceed onwards to the Programme Delivery Team. Once the Check & Challenge Group is satisfied that a business case for change is

complete, it is sent to the Programme Delivery Team for consideration. If the Programme Delivery Team is satisfied that a viable business case for change has been made; it will refer the business case to the Programme Review Board.

5.16 The SRO is also fulfilling the Workstream Lead role for this workstream.

Workstream 3: Workforce Development Workstream

5.17 Workstream 3 deals with the change management and cultural interventions required to ensure that staff can adapt to reflect the organisation redesign and new ways of working delivered by Workstreams 1 and 2. This workstream is about the longer-term workforce/organisation development required to shift the culture/behaviours to create the new organisation. It will include the provision of training for staff in problem solving, innovation and practicing continuous improvement enabling them to “sharpen the saw.” This is necessary because change is not static and so this workstream will equip the workforce to be future focused and striving for continuous improvement. A programme of transformation and cultural change across the organisation will help to maximise performance.

5.18 The SRO is also fulfilling the Workstream Lead role for this workstream.

Workstream 4: Communications and Engagement Workstream

5.19 Workstream 4 is to ensure there is a workplace approach to communication about the TT Programme and its engagement with members, staff, and external stakeholders, particularly our customers. This workstream will manage the “soft edge” aspects of the people side of change as it is essential to prepare the workforce and equip them to cope with change. This workstream will ensure the conditions are right for everyone to be able to fully contribute to the aims of the TT Programme, ensuring they are motivated to contribute to its success whilst having a sense of their own well-being. A baseline of staff engagement will be set to ensure improvement is achieved.

5.20 The Workstream Lead role for this workstream is being undertaken by a contractor working 2 days per week (on average) and has been contracted for a total of 140 days via the East of England Talent Bank.

6. Corporate Implications

(a) Financial Implications

The Council has earmarked reserves totalling £1.14m which are available to fund the TT Programme. In addition, there is a separate £100k per annum within the revenue budget as a contingency for implications arising from the proposed NJC single status job evaluation scheme.

The s151 officer has delegated authority to withdraw funds from earmarked reserves. However, the s151 will only do so where the proposed spend is in line with the purpose of the earmarked reserve and there is clear rationale or a business case which supports the withdrawal.

In addition to the already available reserves and budget, it is expected that many of the business cases being brought forward will identify cashable savings. Where those savings fall into a future financial year, they will be factored into the Medium-Term Financial Strategy and used to reduce budget gaps in future years. If there is a cashable saving in the current financial year, that can be used to offset implementation costs. For example, any savings on staffing arising from the Organisation Redesign in 2023/24 can be used to offset any redundancy and associated costs incurred to unlock those savings.

Restructuring the layers of management are likely to create circumstances in which individuals are displaced which in turn creates employment law rights and obligations on the Council. Any redundancy and financial strain on pension payments arising will be made in compliance with the Council's Redundancy Policy and will comprise only the statutory and contractual payments which the Council is legally obliged to pay (which could potentially include redundancy payments, pension strain, and payments in lieu of notice). Some of these legally required payments (which do not include any discretionary sums) could exceed £100k, however it is anticipated that the reserves and budgets already agreed and allocated by full Council will be adequate to address all of the potential payments.

Guidance issued under section 40 of the Localism Act 2011 on pay transparency (and to which the Council must have regard) states that full Council should be offered the opportunity to vote before severance payments over £100k are approved (this is reflected in the Council's Pay Policy Statement).

As stated above, any severance payment will comprise only the statutory and contractual payments which the Council is legally required to pay – the payments will not include any discretionary sums.

To that end, Council is recommended to agree to the payment of legally required statutory and contractual severance in relation to any redundancies that may arise from the Organisation Redesign workstream which may exceed £100k.

Any statutory and contractual redundancy payments of less than £100k will be dealt with in accordance with the Council's scheme of delegation.

As the TT Programme progresses, should the scale and cost of change indicate that the funding available will be exceeded, additional funding could be made available either from the General Reserve or by repurposing other earmarked reserves. Such action would need to be supported by robust business cases clearly demonstrating the benefits of the proposal and the appropriate governance being undertaken at the time.

(b) Legal Implications

The Programme Review Board is not a formal decision-making body. Formal decision making remains within the auspices of the Council's Constitution and cannot take effect until it has been approved through the Council's relevant corporate governance processes.

Legal issues arising as a result of the Transforming Together programme will be kept under review as the detail emerges relating to proposed structural changes. Any transformation process should comply with all relevant employment law legislation, including the Equality Act 2010.

(c) Human Resources and Equality Implications

Human Resources

The annual Pay Policy Statement, approved by Council as part of budget setting in February 2023 will need to be amended to reflect the changes in organisational pay, grades, structures and terms and conditions of employment. An amended Pay Policy Statement will be brought to Council at the proper time to reflect changes made.

Equality Implications

An Equality Impact Assessment has been carried out and the impact of the proposal is neutral.

(d) IT and Asset Management Implications

These will be reviewed as part of service reviews (see paragraph 5.13 above).

7. Timescale for implementation and Risk Factors

Implementation – key milestones

- Tier 2 Chief Officer reorganisation – May – July 2023
- Tier 3 Senior Officer reorganisation – July – October 2023
- New Target Operating Model go live 1 November 2023
- NJC Job Evaluation Scheme – November 2023
- Pay To Grade /New Pay and Grading structure for the Council implemented – April 2024
- New Ways of Working Service Reviews – October 2023 – March 2024

Risk Factors

The risks relating to the TT Programme are identified and managed in accordance with a risk register which is overseen by the Programme Manager using industry standard methodology. Risks are monitored by the Programme Delivery Team and reported to the Programme Review Board. They include, for example:

- Lack of engagement and understanding of the programme across all levels of the organisation, resulting in benefits eroded and transformation not achieved.
- Local government balloting on industrial action may lead to a delay to the programme and in achieving anticipated benefits on time.

8. Background Papers

Equality Impact Assessment

Report Author: Angela Hutchings, Chief Executive

SPECIAL COUNCIL

31st May 2023

Subject: **Review of Electoral Arrangements - Update**

Cabinet Member: **Councillor Blackwell - Leader**

1. Purpose of Report

1.1 This report sets out the action taken further to the meeting of Ordinary Council on 22 March 2023 where the final recommendations of the review of the electoral arrangements in Castle Point Borough Council were discussed, resulting in a Motion (as set out in paragraph 4.2 below) that received unanimous support from elected members.

2. Links to Council's Priorities and Objectives

2.1 As the electoral arrangements are fundamental to the delivery of the Council's priorities and objectives, this report links to all.

3. Recommendations

3.1 The following recommendations are made:

- a) That Council notes the action taken following the Motion raised and supported unanimously by elected members at their meeting of Ordinary Council on 22 March 2023;
- b) That Council notes the content of the letters sent to and from the Local Government Boundary Commission for England as included in Appendices 1, 2 and 3; and
- c) That subject to receipt of formal legal advice following review by Leading Counsel the Solicitor to the Council in consultation with the Leader of the Council is authorised to determine whether to pursue any further challenge to the Commission's Final Recommendations for the new electoral arrangements for Castle Point Borough Council and report to Cabinet on the outcome of the consultation.

4. Report

4.1 On 22 March 2023, the Council met to discuss the final recommendations of the review of electoral arrangements in Castle Point Borough Council, conducted by the Local Government Boundary Commission for England ('the Commission')

4.2 Over the course of the debate, elected Members raised a number of issues and voted unanimously in support of the following Motion:

Full Council should take the following steps to respond to the sentiments being heard from our residents and from councillors in the Chamber tonight:

- a. *Legal opinion from a top barrister to tell the Council how it can force the Boundary Commission to look at the report and recommendations again*
- b. *Chief Executive to write to the Boundary Commission with strong objections to the cutting of West Ward and reduction of councillors on Canvey Island*
- c. *Follow up report at the next Council meeting with an update on legal advice given about stopping the changes and to get an update from the Chief Executive regarding the objections sent to the Boundary Commission*

4.3 On 27 March 2023, the Chief Executive of Castle Point Borough Council, wrote to the Chief Executive of the Commission setting out each of the issues raised by elected members, requesting that the Commission revisits and reconsiders its final recommendations in advance of the scheduled laying of the draft Order before Parliament on 10 May 2023.

4.4 A response to this letter was received on 20 April 2023 and is included in Appendix 1. In the letter's conclusion, the Commission informed us that

"Now that the review is complete, the recommendations cannot be amended by the Commission and the next step will be to lay a draft order in Parliament. We intend to do this before the summer recess, and we will inform the Council when the draft order has been laid."

4.5 On 17 April 2023, the Solicitor to the Council, contacted Messrs Sharpe Pritchard Solicitors, who are experts in Local Government and Constitutional Law, expressing that the Council wished to instruct them to advise and possibly represent the Council in relation to a possible Judicial Review challenging the Commission's recommendations. An initial meeting was held with Sharpe Pritchard on 27 April 2023 where it was agreed that they would provide the Council with a formal written advice which would be approved by Leading Counsel, a barrister expert in Local Government and Constitutional Law.

4.6 It was also agreed that they would write to the Commission to attempt to delay the laying of the draft order before Parliament in order to give the Council time to consider its position. Their letter was sent on 4 May 2023 and is included in Appendix 2.

4.7 Councillors were emailed on 10 May 2023 with an update on matters, including copies of the two letters referenced above.

4.8 A response was received from the Commission on 11 May 2023, informing Sharpe Pritchard they are not prepared to wait until the Autumn before laying the draft order in Parliament and still intend to do that before the summer recess. The Commission, in the same letter, informed Sharpe Pritchard that they will let the Council know in advance when they plan to lay the order. The Commission's response is included in Appendix 3.

4.9 On 19 May 2023, the Chief Executive was informed by the Chief Executive of the Commission that the Order was to be laid on 23 May 2023. On 23 May the Council was notified that
'the Commission has today laid the draft order in both Houses of Parliament which seeks to legally implement the final recommendations for Castle Point at the council elections in 2024.'

The draft order can be found here –
<http://www.legislation.gov.uk/id/ukdsi/2023/9780348248180>*.*

4.10 Formal written advice is awaited from Sharpe Pritchard following review by a leading barrister.

4.11 In the event that formal advice is received prior to the meeting a note will be circulated separately as Private business as the note will contain Exempt Information under Paragraph 12 Schedule 12A Local Government Act 1972 as amended – advice regarding legal proceedings.

5. Corporate Implications

Financial implications

The legal costs for the action taken to date are estimated to be in the region of £10,000 and will be funded from the General Reserve as is usual for unforeseen legal fees.

The estimated cost of applying for a Judicial Review is estimated to be significant together with a further potential in legal fees to support the hearing. There is a further risk of the addition of an equivalent amount if the Council is unsuccessful and the Commission are awarded legal costs.

Any costs arising from this action would also need to be met from the General Reserve. Councillors would need to be able to satisfy themselves that pursuing these actions and incurring significant expenditure whilst giving due consideration to the expert legal advice received is good value for money.

If the Council decides to not pursue any further challenge to the Commission's final recommendations, the cost of running an election under the recommendation new arrangements has already been built into forecast Council budgets for 2024/25

Legal implications

Once these final recommendations have been laid before Parliament, the Council is obliged to follow these as they will have become law.

In the event of disagreement with the final recommendations, legal remedy it is available to a person, a class of persons, the council as a public authority or other organisation to seek a prerogative order through a claim for judicial review in the High Court to challenge the public law decision made by the Boundary Commission.

Leave to make a claim must also be obtained from the High Court before any arguments can be heard and proceedings are decided based upon on submissions from the parties and here the Treasury Solicitors Department would act as the solicitors for the respondent. This in effect would be a public authority making a public law claim against another government body which, in essence, is public funds being used to support legal proceedings between public bodies which does not usually attract favourable attention.

In the event that advice is received from Sharpe Pritchard solicitors advising that there are no grounds to challenge the Boundary Commission for England's Final Recommendations in respect of the Council's new electoral arrangements, it is unlikely that leave to make a claim would be obtained from the High Court and in any event such an application would be against expert legal advice and would be wholly unmeritorious.

Human resources and equality implications

Human resources

Action taken to date has been within the core establishment of officers working for the Council. Further action may require additional human resources either from the core establishment or brought in at additional cost.

If the Council decides to not pursue any further challenge to the Commission's final recommendations, their implementation may require additional human resources, particularly for the first set of elections under new arrangements in May 2024. These will be explored in more detail as planning for the elections commences.

Equality implications

There are no identified equality implications in the Commission's review, or the action taken by the Council as presented in this report. If the Council decides to not pursue any further challenge to the Commission's final recommendations, planning for elections under the new arrangements will include giving full regard to equality implications.

Timescale for implementation and risk factors

A decision to pursue further challenge of the Commission's final recommendations through Judicial Review comes with significant risk, both financial and reputational.

If the Council decides to not pursue any further challenge to the Commission's final recommendations, the new electoral arrangements will apply from May 2024.

6. Conclusions

6.1 Further to the Motion passed unanimously by elected members on 22 March 2023, the Council has made a robust written challenge to the Commission's final recommendations. The Council has also sought, legal advice from solicitors who are experts in Local Government and Constitutional Law, advice which is being reviewed and approved by a leading barrister who is also a Local Government and Constitutional Law expert.

Report Author: Ms Angela Hutchings Chief Executive

Appendix 1 – Response from the Commission to letter from Castle Point Borough Council

Appendix 2 – Letter from Sharpe Pritchard Solicitors to the Commission requesting a delay to the laying of the draft regulations before Parliament

Appendix 3 – Response from the Commission to the letter from Sharpe Pritchard Solicitors requesting a delay to the laying of the draft regulations before Parliament

Angela Hutchings
Chief Executive
Castle Point Borough Council
Council Offices
Kiln Road
Thundersley, Benfleet
Essex
SS7 1TF

20 April 2023

Dear Ms Hutchings,

RE: NEW ELECTORAL ARRANGEMENTS FOR CASTLE POINT BOROUGH COUNCIL

Thank you for your letter of 27 March 2023 with regard to the recently completed electoral review of Castle Point Borough Council.

I note that your Council passed a resolution seeking legal opinion to 'force' the Commission to examine its recommendations for Castle Point again. Thank you for providing the video link to the meeting in question which I have viewed. I am sorry that your members have concerns with the outcome of the review and I would like to address the key issues they raise in turn:

1: The Commission based its recommendations on development areas that were included in the now withdrawn Local Plan.

The electoral forecasts used as the basis of the recent electoral review were generated by your Council and agreed by the Commission at the start of the review. We recognise in our guidance that forecasting electors is an inexact science and they will never be completely accurate. Indeed, circumstances do change with new developments coming on line that may not have been included in the original forecast, while other planning proposals are subsequently withdrawn. We have to draw a line when agreeing elector forecasts. Our approach is that the forecast agreed at the beginning of the review is the one used throughout. If we were to constantly change the forecast to reflect every change in circumstance, we would, to be blunt, never complete an electoral review.

2: The population of the Borough has grown – the Commission should not have reduced the number of councillors.

As is made clear in our guidance, there is no automatic requirement that an increase in population means we should maintain or increase the number of councillors. Castle Point has had 41 councillors for over twenty years. The role of both elected members and local authorities has transformed in that time and we do not consider increases in electorate and population when considering an appropriate number of councillors for a local authority.

I note the views expressed by the Leader of the Conservative Group, Councillor Isaacs. In response, I would stress that the proposal that the number of councillors should be reduced from 41 to 39 members was submitted by the Council itself and, as indicated to us, it had cross-party support from the political groups represented on the Council at that time. Additionally, we rejected a proposal from the local Conservative Association to reduce the number of councillors even further to 36 members because we did not consider there was sufficient evidence in this submission to justify such a reduction in councillors. I am content that the Commission has acted entirely properly and in accordance with its guidance in agreeing the number of councillors to be represented on Castle Point Borough Council in the future.

3. The Commission pre-decided it was going to reduce the number of councillors in Castle Point.

The Commission does not have an agenda for reducing the number of councillors for local authorities in England. Where we do recommend a reduction, this is invariably because a local authority or one of its groups has made a compelling case for a reduction in members. There are many examples where we have retained the existing number of councillors or increased this number in local authorities we review. This is always based on locally generated evidence submitted to us. Therefore I reject the assertion that the Commission has any agenda in this regard. I note the comments from the Leader of the Council about the alleged lack of input the Council had in the process. However, as noted above, it was the Council's own submission for a 39-member council that we adopted in our recommendations.

4. The A13 is a natural boundary yet this road runs through some of the recommended new wards.

In determining the location of ward boundaries, the Commission has to balance a number of factors, primarily its three statutory criteria which are:

- Electoral equality: Equalising the number of electors each member represents.
- Ensuring that the recommendations reflect community identities and interests.
- Providing arrangements that support effective and convenient local government.

Sometimes it is not possible to follow a boundary which is considered by some to be clear. There could be many reasons for this including the need to ensure good electoral equality for wards or to reflect the fact that communities identify with each other across main roads. These decisions can sometimes be finely balanced, but the Commission is charged with making a judgement as to what constitutes the most effective balance of the criteria. The Commission cannot accommodate all of the preferred options presented to it during consultation, although it did reflect the split between the mainland and Canvey Island in its recommendations.

5. Deprivation and socio-economic factors should have been taken into account when making recommendations.

We do not take into account socio-economic factors and deprivation when developing our recommendations for ward boundaries. The legislation requires that we balance our

three statutory criteria which I listed earlier. Furthermore, in the absence of local evidence during consultation, we would not assume that, because two adjoining areas have very different socio-economic profiles, they should not be placed in the same ward. This would be both presumptive and not reflect the criteria. These matters might contribute to member workload which is one of the many factors we consider when making a recommendation for council size. However, as stated earlier, the proposal we adopted to reduce the council size by two members was the one put forward by the Council itself.

6. The names of the recommended new wards do not contain anything about local history or local geography.

The ward names put forward by the Commission in its recommendations, are based, as far as possible, on local evidence received during consultation. Indeed I note in our final recommendations we were responsive to evidence provided from local residents and changed our ward names in the Hadleigh area. While history is important and builds a sense of community identity, reflecting local history is not a requirement when we determine ward names. We want to recommend names that reflect the pattern of communities as they are today and how they might develop in the future.

7. New development on Sandy Bay and expected further development in the Borough has not been taken into account in the 2028 projected electorate figures.

The forecast we accepted at the beginning of the review was the one generated by the Council itself. The forecast will never be completely accurate and sometimes developments are agreed during or shortly after the completion of a review. For a fuller explanation on our approach to electorate forecasts, please see point 1.

8. The Review is unfair and undemocratic.

I am very sorry that your members feel the process has been in some way unfair and undemocratic. There were two full rounds of public consultation during the review when we sought the views of local people and organisations, including the Council and its members. As well as providing all the information on our website, we issued a press release to the local media and the Council, local posters about the review and publicised it on social media. While I accept that an electoral review maybe considered a rather dry topic, we often conduct reviews where we receive many hundreds or even thousands of responses. While I accept that Castle Point is relatively small and the response rate during the consultation was quite low, we sought to publicise the review widely.

The Commission is proud of its record of being responsive to local views and changing its proposals between draft and final recommendations. It was stressed to your members last year when we briefed them that if the Council wished to have the most influence the outcome of the review it should provide a well-evidenced borough-wide warding submission during the first round of consultation.

While we received a submission from the Borough Council at the first round of consultation, neither it or its political groups made a borough-wide warding submission at this stage. I would say that elected members had ample opportunity to influence the

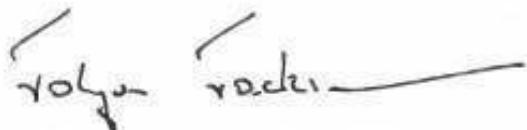
outcome of the review with a well-evidenced warding submission, but they failed to take this opportunity. We did receive more localised submissions from local political parties, local residents and organisations which had an impact on our recommendations.

All of the submissions that we received were given serious consideration, but our Commissioners are sometimes required to make difficult decisions that will not always be to the liking of all locally. I acknowledge your members' dissatisfaction with the outcome of the review. However, I am satisfied that the Commission has discharged its duties both according to the legislation and in the spirit of responsiveness, transparency and fairness.

Now that the review is complete, the recommendations cannot be amended by the Commission and the next step will be to lay a draft order in Parliament. We intend to do this before the summer recess and we will inform the Council when the draft order has been laid. We will also ensure that your local MP Rebecca Harris, is notified when we lay the order in Parliament.

I fully accept that my response will not be to your members' satisfaction, but do hope that I have provided a comprehensive response to their concerns. If you would like to discuss any aspect of this letter further, please do not hesitate to contact me on the details listed below.

Yours sincerely



Jolyon Jackson CBE
Chief Executive
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0330 500 1290

SHARPE PRITCHARD

Solicitors and Parliamentary Agents

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Your Ref: **APPENDIX 2**
Our Ref: MR/694/25
E-mail: mroberts@sharpepritchard.co.uk
Tel: 020 7405 4600

For the attention of Mr Jolyon Jackson CBE
Chief Executive

BY EMAIL ONLY: jolyon.jackson@lgbce.org.uk

4 May 2023

Dear Sir

Re: New Electoral Arrangements for Castle Point Borough Council

We have recently been instructed by Castle Point Borough Council in relation to this matter following publication in March 2023 of the Local Government Boundary Commission for England's ("the Commission") Final Recommendations.

We have been instructed by the Council in relation to a potential challenge arising from the Final Recommendations. Our client has provided us with a copy of its letter to you dated 27 March 2023 setting out a number of concerns arising from the Commission's Final Recommendations. We have also been provided with a copy of your response dated 20 April 2023.

Whilst our client remains concerned about all the issues set out in its letter to the Commission dated 27 March 2023, its primary concerns relate to the loss of a whole Ward and the loss of two Councillors on Canvey Island. This issue was raised in numbered paragraph 3 of our client's letter dated 27 March 2023; we note that your response did not deal with the loss of the Ward on Canvey Island.

We are currently in the process of reviewing the documentation and the submissions made during the consultation process and are instructed to seek the view of Leading Counsel.

Your letter dated 20 April 2023 states that you intend to lay the draft Order before Parliament prior to the summer recess which we understand begins on 21 July 2023. The timetable on the Commission's website states that you intend to ask Parliament to approve the recommendations in May 2023 and our client's understanding is that the draft Order will be laid before Parliament on 10 May 2023.

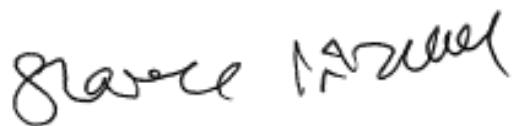
In light of the fact that we have only very recently been instructed in this matter and to allow sufficient time for us to advise our client properly, we request on behalf of our client that the Commission agrees to the date for laying the draft Order before Parliament being delayed until the autumn session. We note from paragraph 64 of the Final Recommendations that the new electoral arrangements will come into force for the local elections in 2024 (subject to Parliament scrutiny, of course). A delay in laying the Order until the end of summer recess on 3 September 2023 would still allow sufficient time for the draft Order to be before each House for the required

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number of sitting days and we do not consider that any prejudice would be suffered by the Commission in agreeing to this delay.

We look forward to hearing from you with confirmation that the Commission is prepared to agree to our client's request.

Yours faithfully

A handwritten signature in black ink, appearing to read "Grace Pritchard".

SHARPE PRITCHARD LLP

Sharpe Pritchard
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10 – 16 Elm Street
London
WC1X 0BJ

Appendix 3

11 May 2023

Your Ref: MR/694/25

Dear Sir/Madam,

RE: NEW ELECTORAL ARRANGEMENTS FOR CASTLE POINT BOROUGH COUNCIL

Thank you for your letter of 4 May 2023 with regard to the recently completed electoral review of Castle Point Borough Council.

I note that your client has instructed you with a view to a potential challenge to our final recommendations, and that you have had sight of my response to your client dated 20 April 2023. I will firstly address the matter relating to the 'loss' of a ward on Canvey Island and then turn to the timing of the laying of our statutory instrument in Parliament.

In explaining the Commission's decision in respect of the number of councillors and wards for Canvey Island, it is important to go back to the beginning of the review. It is helpful that you have identified the focus of concern which relates to council size and the implications that flow from retaining the pattern of elections by thirds. These points were explained carefully at the start of the review and are referred to in our written guidance. However, I am happy to reiterate here.

At that stage, the Commission sought the views of the Council and its members as to the appropriate number of councillors for Castle Point. The Council formally made a submission supporting a reduction of two councillors so that the authority be represented by 39 councillors. The Commission Board considered the evidence provided and agreed with the Council's proposal. Once that decision was made, we then turned to the matter ward boundaries. It should also be noted that the Council did not change its electoral cycle. As Castle Point elects a third of its members three years in every four, Schedule 2 to the Local Democracy, Economic Development & Construction Act 2009 requires us to have regard to:

'the desirability of securing that each electoral area of the district council returns an appropriate number of members of the council'.

In this context, 'appropriate' means that it is divisible by three. The Commission is clear in its guidance that it starts with a presumption that, for local authorities like Castle Point that elect by thirds, it will recommend a uniform pattern of three-member wards (and, by inference, a council size that is divisible by three) to meet this requirement in

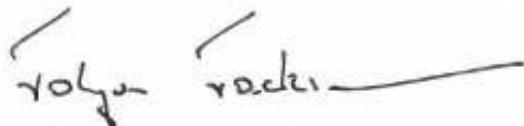
legislation. However, if it can be shown that such a pattern would not meet our statutory criteria, we are prepared to depart from that presumption. In the case of Castle Point, Commissioners exercised their judgement and did not consider there was evidence to justify moving away from a uniform three-member warding pattern for the authority.

In order to reflect this pattern and ensure good electoral equality (namely, that so far as possible each councillor should represent the same number of electors), the Canvey Island area of the borough has been allocated five 3-councillor wards. This is an appropriate allocation given the electorate of the area. To allocate more wards and members would mean that the Island would be over-represented relative to the remaining parts of Castle Point. Furthermore, we considered that creating wards that included parts of the mainland would not reflect community identities or provide for identifiable ward boundaries. I am content that Commissioners appropriately exercised their judgement in this respect when agreeing their recommendations and acted in accordance with legislation and process.

As stated in my recent letter to your clients, the final recommendations cannot be amended by the Commission and the next step will be to lay the draft order in Parliament. We still intend to do this before the summer recess. It is normal process to allow Parliamentary scrutiny of our recommendations in this way and we remain of the view that it is important to allow the authority and its members sufficient time to prepare for an election under new ward boundaries. I am therefore not persuaded that laying the order before Parliament goes into its summer recess would hinder the authority from being properly advised by you.

As mentioned in my previous correspondence with the authority, I am very happy to discuss the process with the Chief Executive of Castle Point Borough Council and I will let them know in advance when we plan to lay the order in Parliament.

Yours sincerely



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Chief Executive
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