

## 2. CONSTITUTION AND MEMBER SERVICES SCRUTINY PANEL

*The Constitution and Member Services Standing Panel consisted of the following members:*

Councillor M Sartin (Chairman)  
Councillor A Watts (Vice Chairman)  
Councillors D Dorrell, J Lea, M McEwen, J Philip, Caroline Pond, D Stallan, G Waller, J H Whitehouse and S Weston

The Lead Officer was Simon Hill, Assistant Director, Governance and Performance Management.

### *Terms of Reference*

To undertake reviews of constitutional, civic, electoral and governance matters and services for members on behalf of the Overview and Scrutiny Committee and to report to the Overview and Scrutiny Committee, the Council or the Cabinet with recommendations on matters allocated to the Panel as appropriate.

*The Panel scrutinised a number of issues over the last year, which included:*

**(i) Local Elections – 22 May 2014** – At their July 2014 meeting, the Panel received a report from the Returning Officer regarding the Elections held on 22 May 2014. They were:

- (a) Election of 7 Members of the European Parliament for the Eastern Region of the UK;
- (b) 19 District Council Wards; and
- (c) 1 Parish Council by-election for Buckhurst Hill West.

Voter turnout at the various elections ranged between 44% in the Buckhurst Hill East Ward and 28% in Waltham Abbey Paternoster Ward. Turnout for the European Parliamentary Election, within the district, was 35.58%, compared with a turnout of 35.90% across the region.

It was noted that there were few issues with the election, generally all practices were completed successfully.

The issue of postal votes went smoothly. Initially problems were experienced with software and scanners used for checking personal identifiers, but this was resolved remotely. 196 postal votes were rejected for various reasons, over 60 of which did not contain a ballot paper or postal voting statement. It was advised that new legislation required the Electoral Registration Officer to inform electors, after a poll, that their postal vote identifiers had been rejected.

**(ii) Review of Polling District, Polling Places and Polling Stations** - The Electoral Registration and Administration Act 2013 made it compulsory for this authority to carry out a review of Parliamentary polling districts and polling places within 16 months, starting from 1 October 2013, with further reviews starting on 1 October of every fifth subsequent year. It was necessary for the Council to consider polling districts and places in the Epping Forest Parliamentary constituency and those parts of the Brentwood and Ongar and Harlow situated within the district.

A polling district was a geographical area created by the sub division of a UK Parliamentary Constituency for the purposes of an election. A polling place was the building or area in which polling stations would be selected by the Returning Officer. A polling station was the room or area within the polling place where voting took place.

Notice of a review together with details of the existing polling districts, polling places and polling stations were given on 24 March 2014. The consultation period ran from 24 March to 30 May 2014.

Following the consultation, the Panel advocated that a report be submitted to the Council making several minor recommendations on the future of the district's polling places and stations.

**(iii) Constitution Review** - The Panel noted that the Council adopted a new constitution, based on a government model, in 2000. However in order to reflect changing circumstances, the constitution had grown to over 650 pages with no overriding review having been undertaken since its adoption.

The agreed Business Plan for the Governance Directorate included the aim of completing a review of the Constitution by March 2016. Although this Panel had undertaken a number of reviews of sections of the Constitution, the proposed review sought to ensure consistency of wording and rules across the piece and rationalise procedures to avoid duplication or repetition.

*(see Case Study for full details)*

**(iv) Joint Consultative Committee – Review of Terms of Reference** - Following a Management Board report in December 2012, it was acknowledged that the Terms of Reference for the Joint Consultative Committee (JCC) had not been reviewed for a period of considerable time. Therefore Management Board agreed that a review of the JCC should take place.

The JCC was the Council's forum whereby discussions took place with the recognised trade unions in line with the representations at a regional level. However the Performance Improvement Unit (PIU) had identified that non-union members were not represented at the JCC. Whilst technically correct, as trade unions were not required to represent non-union staff, it was noted that:

- (a) The trade union representatives who attended the Committee had to be employees of the Council;
- (b) There were 9 trade union representatives from a range of service areas who between them were likely to hold a range of views similar to employees who were not trade union representatives; and

- (c) All representatives, whether staff or member, were permitted to share their views with the Committee and did so.

It was advised that work was progressing outside the review of the JCC Terms of Reference regarding internal staff communications and as part of the review they would draft and develop an Employee Engagement Strategy.

The Panel were happy to recommend the amended and updated terms of reference for the JCC.

**(v) Planning Committees and their Terms of Reference** - At their February 2015 meeting the Panel considered a review of the operation of Planning Committees and their Terms of Reference. This originated from the Overview and Scrutiny Committee, at its meeting on 16 September 2014, when it referred a PICK form request to the Planning Scrutiny Panel who then referred their deliberation on to this Panel.

The Panel supported the Planning Scrutiny Panel's recommendation on the criteria for referring applications to the DDCC subject to the inclusion of "large scale development schemes" to the items that would go directly to the DDCC.

The Panel supported changing the name of the District Development Control Committee to District Development Management Committee to reflect new directorate section titles and the adoption of the revised draft Article on the operation of and arrangements for Planning Committees.

**(vi) Amendments to the Council's Complaints Scheme** - The Council's complaints scheme had four stages, an investigation of a complaint at each stage was undertaken by the following:

- (a) Step 1 – Manager of the Service area concerned;
- (b) Step 2 – Director or Assistant Director;
- (c) Step 3 – Complaints Officer on behalf of Director of Governance; and
- (d) Step 4 – Member Complaints Panel

The Panel was informed that in 2006 the Local Government Ombudsman introduced the "12 week rule" which urged councils to complete every stage of a complaint within 12 weeks of their first receipt. Inability to do so meant the complainant had the right to bypass any remaining stages in the complaints procedure and instead take their complaint to the Ombudsman. However, the complaints procedure adopted by the District Council made it impossible to complete all four stages within 12 weeks. Investigations at Steps 1, 2 and 3 usually took around 3 – 4 weeks each to complete. A complainant remaining dissatisfied could request a further review, although it could take 7 – 8 weeks to organise a meeting of the Step 4 Member Complaints Panel.

Therefore complainants were advised that it was not possible to offer a Step 4 review within the 12 week time limit, therefore they had the right to bypass this and take their complaint to the Ombudsman.

Members noted that discontinuing Steps 1 – 3 would not resolve the problem because whichever two of the three stages were retained, would still require a total of around 8 weeks to complete, which would not leave enough time to organise a

Complaints Panel review within the 12 week time limit. It was advised that no other local authority in Essex, or indeed the rest of the country, had as many stages for complaints or offered a final review by Members.

Members supported the recommended changes.

### ***Case Study: Review of the Council's Constitution***

The most substantial task undertaken by the Constitution and Member Services Scrutiny Panel has been to start the process of reviewing the Council's Constitution.

The Council's Constitution dates back to the Local Government Act 2000 which required every council to have a Constitution containing the authority's standing orders, code of conduct and such other rules and information that were considered appropriate.

Over time the Constitution had grown to over 650 pages which whilst reflecting changing circumstances, had made easy access to the rules governing Council business at times difficult. No overriding review has been undertaken since its adoption.

The Business Plan for the new Governance Directorate included the ambitious task of completing a review of the Constitution by March 2016. It sought to ensure consistency of wording, rules and a rationalisation of procedures to avoid duplication and repetition.

The Constitution and Member Services Scrutiny Panel commenced work on the review with consideration of a scoping report at its September 2014 Panel meeting. The Panel was aiming to examine the following specific areas during this year:

- (a) Articles of the Constitution;
- (b) Delegations and contract standing orders;
- (c) Minority references;
- (d) Council Procedure Rules; and
- (e) Use of the Chairman's Casting Vote

Given this huge task the Members of the Panel have prioritised their working method as follows:

- (i) Reviewing sections from the Constitution at each meeting with short commentaries by officers with suggested changes;
- (ii) Undertaking consultation with other parties; and
- (iii) Extending invitations to Committee/Panel Chairmen when a Constitutional review issue relevant to their area arose.

The Panel planed to complete the work by March 2016 with the aim of the Council agreeing the new Constitution document by the end of that municipal year. The review was currently making good progress.

