

# Committee Agenda



## Epping Forest District Council

### **CONSTITUTION WORKING GROUP** **Thursday, 12th March, 2020**

**Place:** Civic Offices, High Street, Epping

**Room:** Committee Room 2

**Time:** 7.00 pm

**Democratic Services Officer:** V. Messenger Tel: (01992) 564243  
Email: democraticservices@eppingforestdc.gov.uk

#### **Members:**

Councillors S Jones (Chairman), M Sartin (Vice-Chairman), D Dorrell, S Heap, M McEwen, J Philip, C C Pond, C P Pond, S Rackham, J Share-Bernia and J H Whitehouse

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#### **1. APOLOGIES FOR ABSENCE**

#### **2. SUBSTITUTE MEMBERS**

To report the appointment of any substitute members for the meeting.

#### **3. NOTES OF PREVIOUS MEETING (Pages 3 - 8)**

To agree the notes of the meeting of the Working Group held on 24 September 2019.

#### **4. TERMS OF REFERENCE & WORK PROGRAMME (Pages 9 - 12)**

To review the terms of reference and progress with the achievement of the current work programme for the Working Group.

#### **5. CONSTITUTION - REVISIONS & AMENDMENTS (Pages 13 - 18)**

(Monitoring Officer) To note the attached report.

#### **6. DISTRICT DEVELOPMENT MANAGEMENT COMMITTEE - TO ALLOW A DISTRICT MEMBER TO REGISTER TO SPEAK (Pages 19 - 26)**

To consider the attached report to review current arrangements for public speaking at District Development Management Committee.

**7. DELIVERING INFRASTRUCTURE IN THE DISTRICT: DEVELOPER CONTRIBUTIONS STRATEGY**

Service Director (Planning Services) To provide a verbal update.

**8. OFFICER EMPLOYMENT PROCEDURE RULES (Pages 27 - 40)**

To consider the attached report.

**9. AUDIT & GOVERNANCE COMMITTEE - REVISED TERMS OF REFERENCE (Pages 41 - 46)**

To consider the revised Terms of Reference attached.

**10. RISK MANAGEMENT RESPONSIBILITIES (Pages 47 - 50)**

To consider the attached report regarding the transfer of responsibility of the Corporate Risk Register.

**11. FINANCIAL REGULATIONS**

To consider the report on the review of the current Financial Regulations (report to follow).

**12. AUDIT AND GOVERNANCE AND STANDARDS COMMITTEES - REVIEW OF MERGER PROPOSALS (Pages 51 - 64)**

(Monitoring Officer) To consider the attached report.

**13. OVERVIEW & SCRUTINY COMMITTEES - CO-OPTION OF MEMBERS (Pages 65 - 72)**

To review the draft protocol for the co-option of members to overview and scrutiny committees.

**14. DATE OF NEXT MEETING**

To note that the next meeting of the Working Group will be held on 18 June 2020 at 19.00.

**EPPING FOREST DISTRICT COUNCIL  
NOTES OF A MEETING OF CONSTITUTION WORKING GROUP  
HELD ON TUESDAY, 24 SEPTEMBER 2019  
IN COMMITTEE ROOM 2, CIVIC OFFICES, HIGH STREET, EPPING  
AT 7.00 - 7.50 PM**

<b>Members Present:</b>	S Jones (Chairman), M Sartin (Vice-Chairman), D Dorrell, C C Pond, C P Pond, S Rackham and J H Whitehouse
<b>Other members present:</b>	None.
<b>Apologies for Absence:</b>	S Heap, M McEwen, J Philip and J Share-Bernia
<b>Officers Present</b>	S Tautz (Democratic Services Manager) and V Messenger (Democratic Services Officer)

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## **9. SUBSTITUTE MEMBERS**

It was noted that there were no substitute members for this meeting.

## **10. NOTES OF PREVIOUS MEETING**

### **RESOLVED:**

That the notes of the meeting of the Working Group held on 26 June 2019 be agreed as a correct record, subject to the following amendments:

- (1) Member Guidance on Gifts and Hospitality (Min no 5), paragraph 14, the replacement of 'Councillor C C Pond' with 'A Member', to read:  
A member asked if members could try and refuse gifts/hospitality.
- (2) Paperless Working and Digital Rollout (Min no 7), paragraph 10, the replacement of 'and had also refused' with 'but used', to read:  
'He had refused a device from Essex County Council but used the Outlook web app (OWA) Windows XP.'

## **11. TERMS OF REFERENCE & WORK PROGRAMME**

- (a) Terms of Reference

The Working Group noted the Terms of Reference.

- (b) Work Programme

The following updates were noted:

- That item (1) Constitution was an ongoing revision process;
- That items (5) Section 106 and Section 278 Agreements, (6) Site Visits and (7) Public Speaking were on this meeting's agenda;

- That items (8) Disciplinary Arrangements for Relevant Officers, (9) Audit and Governance and Standards Committees and (10) Financial Regulations were scheduled for the next meeting in March 2020; and
- That item (11) Planning Process Review would be scheduled for the next municipal year 2020/21.

Councillor J H Whitehouse asked why a review of the possible combination of the Audit and Governance and Standards Committees was necessary. The Democratic Services Manager replied that every time this had been looked at previously, a review after a certain period of time had been requested.

Councillor S Jones, Chairman, asked if the review time could be looked at when this item came back? The Democratic Services Manager replied that it was a matter for Council to decide or determine when to review. The Standards Committee also met infrequently. It also depended on what the nature and outcome of that review was.

Councillor J H Whitehouse said that she did not want this review now. The Democratic Services Manager replied that he would look at the terms of the review and what the Working Group was committed to in this review.

Councillor S Rackham asked about progress on item (3) Member Champions that was completed at the last meeting. The Democratic Services Manager replied that in the Working Group's Report to Council on 30 July 2019, the Member Champions Protocol, as set out in Appendix 2 of that report, was agreed. It was also in the Constitution.

**RESOLVED:**

- (1) That the report be noted; and
- (2) That a report be made to the next meeting of the Working Group, setting out the requirements for the review of the possible combination of the Audit and Governance Committee and the Standards Committee.

**12. CONSTITUTION - REVISIONS & AMENDMENTS**

There had been two recent revisions to the Constitution on 28 June and 12 August 2019. Under delegated authority, the Monitoring Officer had made revisions in June to the scheme of delegation to reflect the Council's new management structure and members were advised through the Council Bulletin on 5 July 2019.

As agreed by Council on 30 July 2019, the August update of the Constitution included:

- a revision to member guidance on gifts and hospitality;
- the authority for the Council to appoint Member Champions in accordance with the protocol;
- revisions to the Scheme of Delegation (Delegation of Executive Functions) to enable efficient operation of the Council's Estate Management function; and

- under delegated authority, the Monitoring Officer made revisions to the Scheme of Delegation (Local Choice Functions) to reflect the Council's management structure.

Members were advised through the Council Bulletin on 16 August 2019.

Councillor M Sartin asked if the Constitution was getting larger again. The Democratic Services Manager replied no, because it mainly involved swapping one title for another title except the Member Champions Protocol.

**RESOLVED:**

That the report be noted.

**13. COUNCIL MEETINGS - PUBLIC SPEAKING ON PLANNING APPLICATIONS & SITE VISITS**

The Working Group agreed to bring forward this item, as the Planning Services Portfolio Holder and the Interim Assistant Director (Planning Policy and Implementation) had been delayed by another meeting.

Council had agreed on 25 April 2019 to the recommendations made by the Working Group on 28 March 2019 that the trial arrangement for site visits at the Area Plans Sub-Committees be approved, and extended to the District Development Management Committee.

Council had also asked the Working Group to review:

- (a) existing public speaking arrangements within the Constitution when planning applications referred to Council for determination were not generally subject to arrangements for public speaking; and
- (b) possible arrangements for formal site visits to be held when planning applications were referred to Council for determination.

**(a) Public Speaking**

Arrangements for public speaking at the Area Plans Sub-Committees and the District Development Management Committee (DDMC) had well-established procedures to allow an applicant/agent, objector and a local council representative to register to speak at meetings. If planning applications were referred by constitutional requirement or minority reference from DDMC to Council for determination, current public speaking arrangements did not allow speakers to make further representations. The only exception was if a planning application was referred straight to Council. However, in the last five years no planning applications had been submitted directly to Council without prior consideration by one or more of the planning committees.

There was consensus that public speaking arrangements at Council should be consistent with DDMC and the Area Plans Sub-Committees, but discussion by the Working Group raised the following points:

- Very interested in larger controversial builds going forward, and it would be more inclusive for residents if they were allowed to speak;

- The reality with the Local Plan was that larger more interesting applications, and their effect on a wider area of the District would occur, so there might be a movement towards planning applications going to Council; and
- A previous DDMC chairman had been known for referring planning applications to Council on a split vote, to avoid using a casting vote.

The Democratic Services Manager clarified that there was no legislative or constitutional requirement for planning applications to go before Council.

Discussion turned to parish meetings and that these could become very hostile for residents. Also, some local councils required speakers to register, while others just let residents turn up.

The Democratic Services Manager commented that all councils allowed public speaking in some way. Regarding benchmarking with some other local authorities, all those at local planning authority level allowed public speaking. He would be surprised if public speaking wasn't encouraged.

When the Working Group was asked if priority should be given to those speakers who had registered previously at DDMC to speak at Council, this was thought to be unwise.

It was recommended that public speaking arrangements at Council should be consistent with DDMC and the Area Plans Sub-Committees. There was consensus that speakers at Council should be registered on a 'first come, first served' basis as happened currently on all the planning committees.

## **(b) Site Visits**

The Council's protocol for the management of site visits was set out in the Constitution at Appendix 2 of Article 10 (District Development Management Committee and Area Plans Sub-Committees). However, there were no such arrangements in place for members of the Council to hold site visits.

The Working Group was asked to consider the following:

- (i) When a formal site visit for an application had taken place for members of DDMC, if a further site visit should be arranged for members of Council prior to its determination? and
- (ii) When a planning application was submitted directly to Council, if a site visit should be arranged as a matter of routine?

Only five planning applications had been referred to Council from DDMC in the last five years. Logistically it would be difficult to organise a site visit for all members, both on finding a convenient date and to accommodate members especially at a small site.

Discussion by the Working Group raised the following points:

- To organise a site visit for a large number of councillors could be a nightmare, but at a recent DDMC site visit only three members had turned up;

- Site visits tended to be for well-known sites;
- Certain sites might only be well-known to the members of the relevant Area Plans Sub-Committee, but not to others;
- Members could visit a site on their own if no formal site visit had been arranged;
- Google Earth could be useful to view a site;
- Southend Borough Council apparently organised a visit to every planning application site. When an application for the Gunpowder Factory site, Waltham Abbey, was referred up to Council, the precedent was to have a site visit before the meeting which was very well attended, although the site could not be seen from the road;
- If an officer thought a site visit would be useful this could be arranged, but not to make it mandatory to have a site visit for an application that went to Council for determination;
- To ask members if they wanted a site visit?
- Ultimately it was up to the Chairman of Council who would agree to a site visit;
- If DDMC had a site visit then to definitely have a site visit for Council;
- If DDMC had a site visit then the assumption would be that Council would too, but it was better to wait for a planning officer or member to request.
- Site visits were good to attend but you had to stop yourself pre-determining an application;

The Democratic Services Manager summed up that there was a protocol in the Constitution for site visits to advise members. Site visits were useful especially where they needed to be seen in their context. However, as it was not really practical to ask 58 members if they wanted a site visit, this would therefore be organised when a request was made.

**RESOLVED:**

That a report be made to the Council, recommending:

- (a) That existing arrangements for public speaking in respect of planning applications that currently only apply to meetings of the District Development Management Committee and the Area Plans Sub-Committees, be extended to all planning applications considered by the full Council;
- (b) That any proposal for the holding of a formal site visit for all members with regard to any planning application to be considered by the full Council, be approved by the Chairman of the Council on the recommendation of the Service Director (Planning Services); and
- (c) That pursuant to Recommendations (a) and (b) above, the Monitoring Officer be authorised to make necessary revisions to the Council's Constitution to give effect to the adoption of arrangements for public speaking and the holding of member site visits, with regard to all planning applications considered by the full Council.

**14. DELIVERING INFRASTRUCTURE IN THE DISTRICT: DEVELOPER CONTRIBUTIONS STRATEGY**

The Working Group received a copy of a report recently made to the Cabinet by the Planning Services Portfolio Holder.

Councillor C C Pond said the developer contributions strategy was more to do with the Local Plan. The question was how there should be a developer contribution strategy. The reference from Council was for more minor sites to have developer contributions, as moved by Councillor H Kauffman. There should be involvement of ward member(s). Officers should not have delegation to move S106 contributions. There should also be a recommendation that larger infrastructure contributions were made by major developments.

The Working Group agreed that this item be deferred to the next meeting as the Planning Services Portfolio Holder and Interim Assistant Director (Planning Policy and Implementation) had been delayed by another meeting and were unable to attend.

**15. DATE OF NEXT MEETING**

It was noted that the next meeting of the Working Group would be held on 12 March 2020 at 7.00pm.



## CONSTITUTION WORKING GROUP

### TERMS OF REFERENCE

<b>Title:</b> Constitution Working Group
<b>Status:</b> Working Group
<b>Terms of Reference:</b>  (1) To review any aspect of the authority's constitutional arrangements as requested by the Council;  (2) To undertake general reviews of specific elements of the Constitution in order to ensure that the authority's constitutional arrangements complement current legislative requirements and decisions made by the Council; and  (3) To consider any proposals of the Monitoring Officer for necessary revision to any element of the Constitution.  <b>Reporting:</b>  The Working Group shall report directly to the Council in connection with its Terms of Reference and the achievement of its work programme.
<b>Chairman: Councillor S Jones</b>

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**Constitution Working Group**  
**(Chairman – Councillor S Jones)**  
**Work Programme 2019/20**

Item	Timescale	Progress
(1) Constitution	Ongoing	To consider the ongoing review of the Constitution to ensure alignment with the Council's management structure.
(2) Gifts and Hospitality	June 2019	<b>COMPLETED</b> To review existing guidance for members.
(3) Member Champions	June 2019	<b>COMPLETED</b> To consider arrangements for the ongoing appointment of member 'Champions'.
(4) Paperless Working and Digital Roll-out	June 2019	<b>COMPLETED</b> To consider the proposed move to paperless working in respect of the publication and distribution of the Council's agenda and minutes etc.
(5) Site Visits	September 2019	<b>COMPLETED</b> To consider arrangements for formal site visits to be held with regard to planning applications referred to the Council for determination (Constitution Working Group Minute 21 (28.3.19)).
(6) Public Speaking	September 2019	<b>COMPLETED</b> To review existing arrangements within the Constitution whereby planning applications referred to the Council for determination are not generally subject to arrangements for public speaking (Constitution Working Group Minute 21 (28.3.19)).
(7) Section 106 and Section 278 Agreements	March 2020	To review planning delegations and practice to examine the approach taken to section 106 and section 278 agreements. (Council Minute 69 (20.12.18)) <i>NB: Deferred from Constitution Working Group meeting of 24.09.19.</i>
(8) Disciplinary Arrangements for Relevant Officers	March 2020	To consider the revision of the Officer Employment Procedure Rules (Constitution (Part 4)).
(9) Audit & Governance Committee	March 2020	To review the Terms of Reference.
(10) Audit & Governance Committee and Finance & Performance Management Cabinet Committee	March 2020	To review changes to Risk Management Responsibilities.

(11) Financial Regulations	March 2020	To review the current Financial Regulations.
(12) Audit & Governance and Standards Committees	March 2020	To discuss the possible merger of the Audit and Governance and Standards Committees (Constitution Working Group Minute 25 (16.04.18)).
(13) Overview & Scrutiny Committees – Co-option of Members	March 2020	To review a proposed protocol for the co-option of members to overview and scrutiny committees.
(14) Constitution – Article 10, (Appendix 1 (1))	March 2020	To review persons allowed to register to speak in respect of District Members.
(15) Planning Process Review	TBC (next MY 2020/21)	To consider any changes required to the current structure of the Area Plans Sub-Committees, arising from the Planning Process Review undertaken during 2017/18 (Constitution Working Group Minute 6 (25.06.18)).

## ***Report to the Constitution Working Group***

***Date of meeting:***            ***12 March 2020***



**Epping Forest  
District Council**

**Portfolio:**                    **Leader of the Council**

**Subject:**                    **Constitution – Scheme of Delegation**

**Responsible Officer:**            **Nathalie Boateng (01992 564446).**

**Democratic Services Officer:** **Vivienne Messenger (01992 564265)**

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### **Recommendations/Decisions Required:**

- (1) That the proposed revision to the Council's Scheme of Delegation as set out in this report, be agreed.**

Due to the Service Manager (Democratic Services) leaving the Council, it is necessary to make changes to the Council's Scheme of Delegation at CLD1 and CLM3 as set out in the attached appendix.

### **Resource Implications:**

No specific implications.

### **Legal and Governance Implications:**

The Council's Constitution sets out procedures and rules for the operation of its functions and responsibilities.

### **Safer, Cleaner and Greener Implications:**

No specific implications.

### **Consultation Undertaken:**

Constitution Working Group

### **Background Papers:**

None

### **Risk Management**

Adherence to Council's Constitution reduces the risk of challenge when making constitutional changes.

### **Equality Analysis:**

There are no equality implications arising from the recommendations of this report.

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## Appendix 1 - Changes to Scheme of delegation

	Original Authority Details	Officer(s) Authorised/ Level of Officer Authorised	Subject and Function(s) Delegated
CLC15	Council (Minute 100(7) – 18.4.2000)	LEGAL SERVICES MANAGER	<b>COURT, TRIBUNAL, INQUIRY PROCEEDINGS – ENGAGEMENT OF STAFF AND ADVICE</b>  To appoint appropriate staff and/or external Solicitors and/or Counsel to appear for, conduct and settle proceedings on behalf of the Council in Courts, tribunals, inquiries and other similar venues.
CLD1	Council (Minute 78(4) – 17.2.85)	S. TAUTZ (DEMOCRATIC SERVICES MANAGER) ←	<b>DATA PROTECTION ACT 2018</b>  To act as Data Protection Officer for the purposes of the Data Protection Act 2018 and General Data Protection Regulation.
CLD2	Council 31 July 2018	SERVICE DIRECTOR – PLANNING SERVICES OR A LEVEL 2 OR 1 OFFICER NOMINATED BY THEM.	<b>DEVELOPMENT MANAGEMENT</b>  <b>A. To determine:</b>  (a) All Full Planning Applications (b) All Householder Planning Applications (c) All Outline Applications and Reserved Matters Applications (d) All applications for Advertisement Consent, (e) All Applications for Listed Building Consent (f) All applications for Demolition in Conservation Areas (g) All Applications for Hazardous Substance Consent (h) Tree Preservation Order Consent applications where felling is proposed. (i) All Applications for Variation or Removal of Conditions  except the following which shall be determined by the committee or subcommittee indicated in Article 10 to the constitution:

To replace with  
**N. BOATENG**  
**(LEGAL**  
**SERVICES**  
**MANAGER)**

	Original Authority Details	Officer(s) Authorised/ Level of Officer Authorised	Subject and Function(s) Delegated
<b>CLL6</b>	Council (Minute 24(1)(2) – 9.7.91)	<b>PEOPLE TEAM MANAGER</b>  <b>CHIEF FINANCIAL OFFICER</b>	<b>LOCAL GOVERNMENT AND HOUSING ACT 1989 – PROPER OFFICER DESIGNATIONS</b>  Proper Officer designations made for the purposes of the Sections of the Local Government and Housing Act 1989 indicated:  <b>Section and Purpose</b>  <b>Section 2 (preparation and maintenance of lists of politically restricted posts).</b>  <b>Section 37 (deposit and preparation of statements as to the provision of financial assistance).</b>
<b>CLM1</b>	Council (Minute 34 – 22.7.97) (Minute 168 - 20.4.10)	<b>LEGAL SERVICES MANAGER OR IN THEIR ABSENCE ANY APPROPRIATELY QUALIFIED OFFICER NOMINATED BY THEM</b>	<b>MAGISTRATES' AND COUNTY COURTS – DEFENCE AND PURSUIT OF PROCEEDINGS</b>  To institute, defend, pursue and settle proceedings on behalf of the Council and to appear on the Council's behalf, in any proceedings before the Magistrates' and County Courts.
	Personnel Sub-Committee (Minute 88 – 21.11.89 and 88(b) – 1.12.92)	<b>G. OAKLEY (MANAGING LEGAL EXECUTIVE)/L. COLE (LITIGATION EXECUTIVE)</b>	To appear for the Council in legal proceedings pursuant to Section 223(1) of the Local Government Act 1972 and Section 60(2) of the County Courts Act 1982.
<b>CLM2</b>	Council April 2016	<b>CHIEF EXECUTIVE OR SERVICE DIRECTOR OR A LEVEL 2 OFFICER NOMINATED BY THEM</b>	<b>MALADMINISTRATION – POWER TO MAKE PAYMENTS OR PROVIDE OTHER REMEDIES</b>  The power to make payments or provide other remedies in cases of maladministration, or in cases by individuals which amount to or could amount to maladministration by the Council.
<b>CLM3</b>	Council (Minute 10 – 15.5.2001)	<b>N. BOATENG (LEGAL SERVICES MANAGER)</b>	<b>MONITORING OFFICER AND DEPUTY</b>  To act as Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989 and Sections 26-37 of the Localism Act 2011 for the purpose of performing the duties imposed by those sections.



	Original Authority Details	Officer(s) Authorised/ Level of Officer Authorised	Subject and Function(s) Delegated
	Council (Minute 70 – 6.11.12)		To be responsible for any Parish or Town Councils which are affiliated for the time being to the Epping Forest Standards Committee under Chapter 7 of the Localism Act.
	Council (Minute 10 – 15.5.01)	<b>S. TAUTZ (DEMOCRATIC SERVICES MANAGER)</b>	To act as Deputy Monitoring Officer(s) with the power to act in the absence or during any illness of the Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989.
<b>CLO1</b>	Policy and Resources Committee (Minute 3(3) – 11.10.73)	<b>CHIEF FINANCIAL OFFICER</b>	<b>OFFICERS – RECEIPT OF MONEY DUE</b>  To act as Proper Officer for the purposes of Section 115 of the Local Government Act 1972).
<b>CLO2</b>	Council (Minute 86 – 15.2.05)	<b>CHIEF EXECUTIVE AND MONITORING OFFICER</b>	<b>OMBUDSMAN – NOTICES</b>  To act as proper officer for the purposes of Section 30(5) of the Local Government Act 1974 (publication of notice on receipt of a report from the Local Ombudsman).
<b>CLP1</b>	Council (25.4.19)	<b>G. BLAKEMORE (RETURNING OFFICER)</b>	<b>PARISH POLLS</b>  To act as Returning Officer for the purposes of a Parish Poll in the District in accordance with the Parish and Community Meetings (Polls) Rules 1987,
<b>CLP2</b>	Personnel Sub-Committee (Minute 139 – 20.3.90)	<b>SERVICE DIRECTORS</b>	<b>POLITICALLY RESTRICTED POSTS</b>  (a) To notify all politically restricted post holders of their designations; (b) To incorporate the designation as to politically restricted status in contracts of employment; and (c) To maintain and issue revised lists when necessary and notify the independent Adjudicator.
<b>CLP3</b>	Policy and Resources		<b>PROTECTED BUILDINGS</b>

To replace with  
**N. BOATENG**  
**(LEGAL**  
**SERVICES**  
**MANAGER)**

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## Report to the Constitution Working Group



**Epping Forest  
District Council**

**Date of meeting: 12 March 2020**

**Subject: District Development Management Committee – to allow a District Member to register to speak**

**Responsible Officer &  
Democratic Services Officer: V Messenger (01992 564265)**

### Recommendations/Decisions Required:

**That the Working Group review current arrangements for public speaking at District Development Management Committee to allow District members to register to speak and address a meeting.**

1. At the District Development Management Committee meeting of 22 January 2020, a planning application for land to the north of Dowding Way in Waltham Abbey was to be determined but was deferred to a future meeting of the Committee.
2. The application generated much local opposition and numerous representations were made by the public to the District Council. A District Councillor had also wished to be allowed to register to speak on the application and be allowed three minutes to address the Committee.
3. Currently the relevant provisions of the Constitution in this regard are:
  - Article 10, District Development Management Committee and Area Plans Sub-Committees, Appendix 1 (1) that allows for the following speakers to register:
    - (a) one objector;
    - (b) one representative of any relevant Parish or Town Council for the purpose of explaining the views of that Council on the matter in question;
    - (c) one representative of any other authority consulted on the application or as a statutory consultee where they have so requested;
    - (d) the applicant (or one nominated agent or representative); and
  - Council Procedure Rules (Rule P2) (Planning Applications)

No.	Rule	Procedure	Application			
			C	E	O	NE
P2	Planning Applications	<p>(1) Any planning application submitted to a meeting of the Council shall be subject to the procedure for public participation by applicants, objectors and town/parish councils in the same way as those applied to the District Development Management Committee and/or an Area Plans Sub-Committee.</p> <p>(2) That, pursuant to the scheme of delegation on planning applications set out in Part 3 of this constitution, where a local council have indicated, during the course of planning consultations, of their intention to attend and speak at the Area Plans Sub-Committee meeting where the proposal will be considered and then subsequently fail to register and attend, the application be referred (without any consideration of the merits of the development proposal) to the Service Director (Planning Services) for determination</p>	X			X

4. Currently the only provision for additional speakers is covered by Article 10, Appendix 1 (4) where “the Chairman of the Area Plans Sub-Committee or the District Development Management Committee or the Council may allow additional speakers in exceptional circumstances”.
5. A complete copy of the Constitution, Article 10, is attached for information as Appendix 1 to this report.
6. The Working Group is therefore requested to review this authority’s current arrangements for public speaking with regard to the consideration to allow a District Member to register to speak at the District Development Management Committee.

**Resource Implications:**

The recommendations of this report seek to ensure that the Council’s Constitution remains fit for purpose.

**Legal and Governance Implications:**

The Council’s Constitution sets out procedures and rules for the operation of its functions and responsibilities.

**Safer, Cleaner, Greener Implications:**

There are no implications arising from the recommendations of this report in respect of the Council’s commitment to the Climate Local Agreement, the corporate Safer, Cleaner, Greener initiative, or any crime and disorder issues within the district.

**Consultation Undertaken:**

None

**Background Papers:**

None

**Risk Management:**

The Council’s Constitution sets out procedures and rules for the operation of its functions and responsibilities.

**Equality:**

There are no equality implications arising from the recommendations of this report.

## ARTICLE 10

### District Development Management Committee and Area Plans Sub-Committees

The Council will establish the following Committees which shall be appointed at its annual meeting.

#### Membership

- (1) The following shall be the non-executive committees of the Council, consisting of the number of members set out below:

<b>Committee or Sub-Committee</b>	<b>Number of Councillors</b>	<b>Membership</b>
District Development Management Committee	15 members	15 members of the Council appointed by the Council at its Annual meeting, subject to pro rata requirements and including those members appointed as Chairman of each Area Planning Sub-Committee.  Members to be appointed on the basis of aptitude, interest and planning experience
Area Plans Sub-Committee South	25 members	All District Wards in the parishes of Buckhurst Hill, Chigwell and Loughton;
Area Plans Sub-Committee East	19 members	The District Wards of Chipping Ongar, Greensted and Marden Ash; Epping Hemnall; Epping Lindsey and Thornwood Common; Hastingwood, Matching and Sheering Village; High Ongar; Willingale and The Rodings; Lambourne; Lower Sheering; Moreton and Fyfield; North Weald Bassett; Passingford; Shelley and Theydon Bois.
Area Plans Sub-Committee West	14 members	All District Wards in the parish of Waltham Abbey together with the District Wards of Lower Nazeing; Broadley Common, Epping Upland and Nazeing and Roydon.

- (2) Members of the Council appointed to each Area Plans Sub-Committee shall be drawn solely from those representing wards within the area for which the Sub-Committee is responsible shown in the 'Membership' column above. Seats on each Sub-Committee shall be allocated to all Councillors representing electoral wards in the areas concerned. The requirement for the appointment of Sub-Committees from all members of the Council shall not apply to the Area Plans Sub-Committees.

- (3) Newly elected members may be appointed to the relevant Area Plans Sub-Committee at the next ordinary meeting of the full Council.
- (4) A member of the executive may serve on an Area Plans Sub-Committee if otherwise eligible to do so as a Councillor.

### **Responsibility for functions:**

The Committee and Sub-Committees the subject of this Article have responsibility for determining matters which have been delegated by the Council and the Executive shown in Part 3 of this Constitution, showing those which are the responsibility of the Executive and those which are not Executive functions and any limitations on delegation.

### **Terms of Reference:**

#### **District Development Management Committee**

- (1) To determine:
  - (a) Any development proposals which affect more than one Area Plans Sub-Committee;
  - (b) Any 'large scale' application<sup>1</sup> (as defined below);
  - (c) Any 'major' application<sup>2</sup> (as defined below) where the Council is the land owner;
  - (d) Any application referred by an Area Plans Sub-Committee by resolution, by a minority of members of an Area Plans Sub-Committee in accordance with the Council's Rules or where the Sub-Committee is unable to determine the application;
  - (e) To determine any recommendation of an Area Plans Sub-Committee which relates to potential decisions liable to give rise to claims for costs or compensation, including development management matters and enforcement of planning requirements (including recommendations of no action) but excluding works on preserved trees;
  - (f) Any planning application or other planning matter submitted by, or on behalf of, a Councillor of the Authority (and/or their relevant person as defined in the Council's Code of Conduct); and
  - (g) Any development proposals for a site made by or on behalf of the Council or where the Council is the landowner that has been recommended for refusal by the relevant Area Plans Sub-Committee contrary to a recommendation of the Service Director (Planning Services) that planning permission be granted.

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<sup>1</sup> 'Large-scale major development' means development involving any one or more of the following;

- (a) The provision of dwellinghouses where (i) The number of dwellinghouses to be provided is 200 or more: or (ii) The development is to be carried out on a site having an area of 4 hectares or more where the number of dwellinghouses is not known (normally an Outline application) or
- (b) The provision of a commercial building or buildings where the floor space to be created by the development is 10,000 square metres or more: or
- (c) Commercial development carried out on a site having an area of 2 hectares or more.

<sup>2</sup> 'major development' means development involving any one or more of the following;

- (a) The provision of dwellinghouses where (i) The number of dwellinghouses to be provided is 10 or more up to 199: or (ii) The development is to be carried out on a site having an area of 0.5 hectares or more but just less than 4 hectares where the number of dwellinghouses is not known (normally an Outline application)..
- (b) The provision of a commercial building or buildings where the floor space to be created by the development is 1,000 square metres or more up to 9,999 square metres: or
- (c) Commercial development carried out on a site having an area of one hectare but less than 2 hectares.

## **Area Plans Sub-Committees**

- (1) To consider all applications (except as may be delegated to the Service Director (Planning Services)) or fall to the District Development Management Committee to determine as set out above) received for development within the respective Sub-Committee area and, except as detailed below, to make decisions on behalf of the local planning authority thereon;
- (2) Subject to the prior approval of the Chairman of the Sub-Committee, to consider informal proposals for development and to give guidance to the Service Director (Planning Services);
- (3) To consider planning applications made by other authorities which are considered by the Service Director (Planning Services) to require member response;
- (4) To consider and make recommendations to the District Development Management Committee on applications for development where:
  - (a) the Sub-Committee's proposed decision is a substantial departure from:
    - (i) the Council's approved policy framework; or
    - (ii) the development or other approved plan for the area; or
    - (iii) it would be required to be referred to the Secretary of State for approval as required by current government circular or directive;
  - (b) the refusal of consent may involve the payment of compensation; or
  - (c) the District Development Management Committee have previously considered the application or type of development and has so requested; or
  - (d) the Sub-Committee wish, for any reason, to refer the application to the District Development Management Committee for decision by resolution; or
  - (e) development proposals for a site are made by or on behalf of the Council or where the Council is the landowner, that are recommended for refusal by a Sub-Committee contrary to a recommendation of the Director of Governance that planning permission be granted;
- (5) Planning applications made by officers of Service Director level and above;
- (6) Where an application is objected to by a Councillor in a purely personal capacity;
- (7) To consider enforcement action on a site where members have refused a retrospective planning application;
- (8) To require a report (pursuant to (7) above) to be made to the relevant Area Plans Sub-Committee from officers in those cases where no further action is subsequently proposed, such report to give option to refer enforcement action to the District development management Committee; and
- (9) To require that such report (pursuant to (7) above) be made within two months after the elapsing of the timescale within which a retrospective application can be appealed and that the Sub-Committee is informed if an appeal has been launched after the six week deadline.

## **Public Participation at District Development Management Committee and Area Plans Sub-Committees on Planning Matters**

- (1) There shall be afforded to those classes of persons specified in the rules for participation at Appendix 1 to this Article an opportunity, on request, to make oral representations to any Area Plans Sub-Committee (or in appropriate circumstances, the District Development Management Committee) meeting concerning any planning application or related matter before that Sub-Committee for determination. Such arrangements for public participation also apply to all planning applications considered by the full Council;
- (2) The procedure for dealing with requests to address an Area Plans Sub-Committee, the District Development Management Committee or the Council, shall be as prescribed from time to time by the Council and as set out in Appendix 1 to this Article.

## **Site Visits**

- (1) Formal Site visits may be undertaken of any potential development site subject to application where there is a substantial benefit to the decision-making process. Such a visit may be approved by the District Development Management Committee or the appropriate Area Plans Sub-Committee at the meeting where they are being asked to determine the matter or in advance on the recommendation of the Service Director (Planning Services) in consultation with the Chairman of the District Development Management Committee or the appropriate Area Plans Sub-Committee.
- (2) In those circumstances where an application that has been subject to a formal site visit by an Area Plans Sub-Committee is subsequently referred to the District Development Management Committee for determination, a further site visit will be arranged for members of the District Development Management Committee prior to its consideration of the application.
- (3) Formal site visits may also be held for all members with regard to any planning application to be considered by the full Council. Such site visits shall be approved by the Chairman of the Council on the recommendation of the Service Director (Planning Services).
- (4) Formal Site visits will be undertaken following the guidance at Appendix 2 to this Article.



**RULES FOR PARTICIPATION ON PLANNING MATTERS AT COUNCIL,  
AREA PLANS SUB AND DISTRICT DEVELOPMENT MANAGEMENT COMMITTEE  
MEETINGS**

1. The following persons shall be able, on request, to address the appropriate Area Plans Sub-Committee and/or District Development Management Committee and/or the Council on any planning application or related matter within its terms of reference and included on any agenda, for a period of three minutes:
  - (a) one objector;
  - (b) one representative of any relevant Parish or Town Council for the purpose of explaining the views of that Council on the matter in question;
  - (c) one representative of any other authority consulted on the application or as a statutory consultee where they have so requested; and
  - (d) the applicant (or one nominated agent or representative);
2. In the case of planning applications which have a District-wide significance, it shall be permissible for the Chairman of an Area Plans Sub-Committee, the District Development Management Committee or the Council, to allow any Parish or Town Council to speak on such an application.
3. For the purposes of this Standing Order the definition of "planning application or any related matter" shall not include any existing or proposed enforcement action under the Planning Acts.
4. The Chairman of the Area Plans Sub-Committee, the District Development Management Committee or the Council may allow additional speakers in exceptional circumstances.
5. Persons wishing to address the Area Plans Sub-Committee, the District Development Management Committee or the Council are required to register with Democratic Services by 4.00 pm on the day before the meeting. The Chairman may make changes or additions to speakers after that time at their discretion.
6. Persons addressing an Area Plans Sub-Committee, the District Development Management Committee or the Council shall be allowed no more than three minutes to present their case. At the discretion of the Chairman, speakers may clarify matters relating to their presentation and answer questions from members.
7. Written submissions and photographic or similar material will not be considered by an Area Plans Sub-Committee, the District Development Management Committee or the Council. Any written submissions received after the agenda is produced will be verbally summarised and reported to the Committee.
8. The right to address the Committees is extended to the Area Plans Sub-Committees the District Development Management Committee and the Council. Having previously made representations at an Area Plans Sub-Committee does not preclude any applicant, objector or parish/town council representative from speaking again when the matter is reconsidered.

### **Guidance for Members at Site Visits**

Formal site visits may be requested by any planning committee. These can be requested either before a planning meeting or resolved at the meeting concerned. However, these consume resources and delay determination of an application. It is good practice to consider site visits only where there is a substantial benefit to the decision-making process, e.g. when the impact of the proposed development is difficult to visualise from prior inspection from a public place, or from the plans and the supporting material; or it is particularly contentious.

It is recognised that Councillors are subject to lobbying on specific applications. In such cases, it is essential that care is taken to maintain the Council's and its members' integrity so as to protect the credibility of the planning process.

Councillors are asked to bear in mind the following guidance when undertaking planning site visits so as to avoid the perception of pre-determination.

- Site visits should be undertaken at an agreed predetermined time and conducted in a single group with a planning officer present at all times.
- Members of the committee concerned are encouraged to attend site visits.
- The site visit is managed by the Chairman, Vice-Chairman or planning officer present. The Chairman or Vice Chairman will remind Councillors of the guidance at the beginning of each visit. Members of the Committee or Sub-Committee should not enter into discussions with interested parties, such as the applicant, the agent or neighbours during the visit.
- Councillors/Planning Officers should not allow interested parties to use the site visit as an opportunity of lobbying members of the committee. It is made clear to other parties at the outset that the purpose is to gather information and to view the site only.
- Any questions from Councillors should be limited to questions of fact and directed, in the first instance, to the planning officer present and not directly to interested parties present.
- In the interests of fairness to all parties, members as a single group should consider the desirability of viewing an application site from more than one property when the site visit is arranged.
- Councillors must ensure that the application is not determined at the site visit
- Councillors should avoid acceptance of any hospitality at a site visit which could be misinterpreted by third parties.

## ***Report to Constitution Working Group***

***Date of meeting: 12 March 2020***



**Epping Forest  
District Council**

**Subject:** Officer Employment Procedure Rules

**Officer contact for further information:** Paula Maginnis (01992) 564536

**Democratic Services Officer:** Vivienne Messenger (01992) 564265

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### **Recommendations/Decisions Required:**

- (1) That the Working Group consider revised Officer Employment Procedure Rules; and**
  - (2) That, subject to recommendation (1) above, a report be made to the Council recommending the incorporation of the revised Officer Employment Procedure Rules within the Constitution.**
1. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (the Regulations) made changes to matters relating to the dismissal of the three statutory Officers; the Head of Paid Service; Monitoring Officer and Section 151 Officer (Relevant Officers). The intention of this provision is to ensure that these officers can discharge their duties without any fear of being unduly influenced or being dismissed by the authority without good reason. The changes required amendments to the constitution and the establishment of a process at the Council which encompassed the new procedures and clarified which officers/committees would be responsible at any stage of the process if required.
  2. Every Council is required to appoint a Head of Paid Service, a Monitoring Officer, and a Chief Finance Officer (section 151) Officer. Each of these posts carries specific statutory responsibilities. As these post holders operate in a sensitive environment, Councils have been required to follow special procedures to investigate disciplinary matters regarding officers holding these positions.
  3. Prior to the 2015 Regulations, procedures were governed by statutory Designated Independent Person (DIP) provisions. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 replaced the statutory DIP provisions with an Independent Panel process.
  4. The Council made the required amendments to the Constitution at the time to reflect the changes in the Regulations.
  5. The Chief Executives' Conditions of Service Handbook was updated to reflect the changes made to the regulations in which a revised (disciplinary) model procedure was set out (13 October 2013). The Chief Officers' handbook, published in August 2017, has also now been updated to reflect the changes made to the regulations, and refers officers to the model set out in the Chief Executive's handbook as a reference guide for the dismissal process.

## Main Changes

6. The 2015 Regulations amended the dismissal process for the relevant officers to require that a relevant officer may not be dismissed by an authority unless the matter has been considered by a standing Investigating and Disciplinary Committee (IDC). The IDC is to be politically balanced with at least five members. The Senior Management Selection Panel established in December 2017 already fulfils the redundancy panel functions of the existing Officer Employment Procedure Rules and it is suggested that the Terms of Reference of the Panel should therefore be extended to encompass the new requirements of the 2015 Regulations in terms of the establishment of the Investigating and Disciplinary Committee. Appointment to membership of the Committee could therefore continue to be made as part of the annual appointments process.
7. The 2015 Regulations also amended the dismissal process for the relevant officers by removing the requirements for a Council to appoint a Designated Independent Person and act in accordance with any recommendations made by them. The new regulations provide that a Council must appoint an Independent Panel made up of a minimum of two independent persons (IPs) appointed under section 28 of the Localism Act 2011 (in relation to standards complaints against members), whose advice, views and recommendations should be considered before any decision by the full Council to dismiss a relevant officer can be made.
8. The Independent Panel must be appointed at least 20 days before the Council meeting at which dismissal is considered. The independent persons can refuse to accept an invitation to sit on an Independent Panel and should either of the IP's not be available to sit on an Independent Panel when needed it would be necessary for the Council to appoint additional independent persons from other local authorities, to ensure that a Panel of the required number of at least two IP's is appointed. The Panel can only be appointed by the full Council.
9. The Council currently already has three Independent Persons appointed under section 28 of the Localism Act 2011 in relation to standards complaints, two of whom were appointed in December 2018 on the basis that they may also be required to form part of a Panel that would consider disciplinary action against the most senior officers of the authority. In order to meet the appointment requirements of Independent Panel, it is suggested that it might be appropriate for the Council to formally appoint the three Independent Persons to membership of the Panel as part of the annual appointments process, so that the Panel remains available at all times.
10. To give effect to the above, the Working Group is requested to recommend to the Council that the Officer Employment Procedure Rules set out in in Part 4 Constitution be revised as highlighted in Appendix 1 to this report and by the following specific provision relating to the Independent Panel:  
  
‘The Independent Panel shall consist of the Council's independent persons appointed under section 28(7) of the 2011 Act provided that at least two such independent persons are willing to sit on the Panel. If they are not then, ...’
11. The revised Officer Employment Procedure Rules are set out at Appendix 1 to this report. No changes are required to other elements of the Officer Employment Procedure Rules (particularly Section C (Disciplinary Action) – Suspension) as the current provisions remain in line with the 2015 Regulations.
12. The proposal regarding the establishment of a panel of independent Persons and using the model disciplinary procedure will ensure the organisation is best placed to manage any matters relating to the potential dismissal of the Chief Executive Officer, Monitoring

Officer and Section 151 Officer in the unlikely event that such circumstances should occur.

13. The Working Group is requested to consider the revised Officer Employment Procedure Rules.

**Resource Implications:**

The recommendations of this report seek to ensure that the Council's Constitution remains fit for purpose.

**Legal and Governance Implications:**

The Council's Constitution sets out procedures and rules for the operation of its functions and responsibilities.

**Safer, Cleaner, Greener Implications:**

There are no implications arising from the recommendations of this report in respect of the Council's commitment to the Climate Local Agreement, the corporate Safer, Cleaner, Greener initiative, or any crime and disorder issues within the district.

**Consultation Undertaken:**

The proposed revisions to the Officer Employment Procedure Rules have been subject to consultation with the Monitoring Officer.

**Background Papers:**

None

**Risk Management:**

The Council's Constitution sets out procedures and rules for the operation of its functions and responsibilities.

**Equality:**

There are no equality implications arising from the recommendations of this report.

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## **OFFICER EMPLOYMENT PROCEDURE RULES**

### **CONTENTS**

#### **Rule**

1. Definitions
2. Responsibility for Appointment, Dismissal and Disciplinary Action
3. Recruitment and Appointment – General Requirements
4. Recruitment of Chief Officers
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6. Appointment of other Chief Officers
7. Appointment of Assistants to Political Groups
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11. Objection by the Executive – Dismissal of a Chief Officer
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## OFFICER EMPLOYMENT PROCEDURE RULES

### A. DEFINITIONS AND RESPONSIBILITIES

#### 1. Definitions

##### 1.1 In these rules:

- (a) "the 1989 Act" means the Local Government and Housing Act 1989;
- (b) "the 2000 Act" means the local Government Act 2000;
- (c) *"the 2011 Act" means the Localism Act 2011(b);*
- (d) *"chief financial officer", "disciplinary action", "head of the authority's paid service" and "monitoring officer" have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;*
- (e) "Chief Executive" means the most senior officer of the Council in terms of managerial status and may include any person designated as Head of Paid Service pursuant to s4 of the Local Government and Housing Act 1989 and Deputy Chief Executive shall be construed accordingly;
- (f) "Chief Financial Officer" means the individual who has responsibility for financial administration pursuant to and for the purposes of s151 of the Local Government Act 1972;
- (g) "Chief Officer" means
  - (i) any Level 4 Officer;
  - (ii) further for the purposes of these Rules alone the Chief Financial Officer and Monitoring Officer, Deputy Financial Officer and Deputy Monitoring Officer are included within the definition of Chief Officer; and
  - (iii) further this definition will also include any post which is subsequently created to these Rules and whose terms of appointment expressly state that these Rules will apply as if to a Chief Officer.
- (h) "Executive" and "Executive Leader" have the same meaning as in Part 1A of the 2000 Act;
- (i) "Member of staff" means a person appointed to or holding a paid office or employment under the authority;
- (j) "Pro Rata Rules" mean the principles set out in s15 of the 1989 Act;
- (k) "Proper Officer" means an officer appointed by the authority for the purposes of the relevant provisions in these Rules;
- (l) "The Rules" means the Officers Employment Rules;
- (m) "independent person" means a person appointed under section 28(7) of the 2011 Act;



- (n) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
- (o) “the Independent Panel” means a committee of the Council, appointed under section 102(4) of the Local Government Act 1972 and comprising of only independent persons (at least two) appointed under the S28(7) of the Localism Act 2011 who are willing to sit on the panel for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority; and
- (p) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer as the case maybe.

## **2. Responsibility for Appointment, Dismissal and Disciplinary Action**

- 2.1 Save as otherwise provided for by these Rules and subject to the exceptions in sub paragraphs 2.2 and 2.3 below, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the Chief Executive or by a member of staff nominated by them.
- 2.2 The exceptions referred to in sub-paragraph 2.1 are as follows:
  - (a) the Chief Officers of the Council as defined above; and
  - (b) any person appointed in pursuance of Section 9 of the 1989 Act (assistants for political groups).
- 2.3 Nothing in paragraph 2.2 above shall prevent a person from serving as a member on any panel, committee or sub-committee established by the authority to consider an appeal by:
  - (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
  - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

## **B. RECRUITMENT**

### **3. Recruitment and Appointment – General Requirements**

#### **(a) Declarations**

- 3.1 The Council will draw up a statement requiring any candidate for appointment as a Member of staff to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or member of staff of the Council; or of the partner of such persons.
- 3.2 No candidate so related to a councillor or a member of staff will be appointed without the authority of the relevant Chief Officer of the service to which that candidate has applied or a member of staff nominated by him/her for this purpose.

#### **(b) Seeking Support for Appointment**

- 3.3 The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council.
- 3.4 No councillor will seek support for any person for any appointment with the Council.
- 3.5 The Council will disqualify any applicant who directly or indirectly seeks the support of any member of staff for any appointment with the Council save where the applicant is an existing member of staff and seeks a reference from another member of staff in support of such application.
- 3.6 The content of Rule 3.2 shall be included in any recruitment information.

#### **4. Recruitment of Chief Officers**

- 4.1 Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing members of staff, the Council will:
- (a) draw up a statement specifying (i) the duties of the Chief Officer role concerned; and (ii) any qualifications or qualities to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (c) make arrangements for a copy of the statement mentioned in Rule 4.1 (a) to be sent to any person on request.

#### **5. Appointment of Chief Executive**

- 5.1 The full Council will approve the appointment of the Chief Executive following the recommendation of such an appointment by a panel of seven councillors allocated between political groups in accordance with the Pro Rata Rules who will interview applicants for this position. Such a panel shall include at least one Executive member.
- 5.2 All councillors appointed to such a panel is required to have undertaken recruitment and selection training before taking part in interviews.
- 5.3 The appointment panel will not seek the approval of the full council for the proposed appointment until it has complied with the procedure at Rule 8 below.

#### **6. Appointment of other Chief Officers**

- 6.1 A panel of not less than seven councillors allocated between political groups in accordance with the Pro Rata Rules will interview and, where authorised following the procedure referred to in Rule 8, appoint to these positions. Such a panel shall include at least one Executive member.
- 6.2 All councillors appointed to such a panel are required to have undertaken recruitment and selection training before taking part in interviews.

#### **7. Appointments of Assistants to Political Groups**

- 7.1 Appointments of assistants to a political group shall be made in accordance with the wishes of that political group.

## **8. Objection by the Executive – Appointment of Chief Officers**

- 8.1 In relation to any proposed appointment for any Chief Officer post an offer of appointment should not be made until the Proper Officer has been notified of the name of the person that is proposed is to be offered such position and any other particulars which are considered to be relevant to the appointment and the Proper Officer has notified every member of the Executive of the authority of:
- (a) the name of the person to whom it is proposed to make the offer;
  - (b) any other particulars relevant to the appointment which have been notified to the Proper Officer; and
  - (c) the period within which any objection to the making of the offer is to be made by the Executive Leader on behalf of the executive to the Proper Officer;
- 8.2 Upon such notification having been made then the appointment will only be offered if:
- (a) the Executive Leader has, within the period specified above notified the appropriate appointment panel or individual that neither he nor any other member of the Executive has any objection to the making of the offer;
  - (b) the Proper Officer has notified the appropriate appointment panel, that no objection was received by him within that period from the Executive Leader; or
  - (c) the relevant appointment panel is satisfied that any objection received from the Executive Leader within that period is not material or is not well founded.

## **C. DISCIPLINARY ACTION**

### **9. Disciplinary Action**

#### **(a) Suspension**

- 9.1 Any Chief Officer may be suspended whilst an investigation takes place into alleged misconduct.
- 9.2 The Chief Executive, in consultation with the Monitoring Officer and the Chief Financial Officer as appropriate, shall have delegated authority to suspend a Chief Officer where, in his/her opinion the presence at work of the Chief Officer concerned could compromise an investigation of any alleged misconduct, for a maximum period of 10 working days. Any decision to suspend any Chief Officer for a longer period shall be taken by a Panel of councillors comprising not less than seven Councillors allocated between political groups in accordance with the pro rata rules and convened within the 10-day period of the temporary suspension.
- 9.3 The Leader of the Council, in consultation with the Monitoring Officer and the Chief Financial Officer, shall have delegated authority to suspend the Chief Executive for a maximum period of 10 working days where, in his/her opinion the presence at work of the Chief Executive could compromise the investigation of any alleged misconduct. Any decision to suspend the Chief Executive for a period of more than 10 working days up to a maximum of 2 months shall be made by a Panel of not less than 7 Councillors allocated between political groups in accordance with pro rata rules.

- 9.4 Any assistant to a political group may be suspended by the leader of that political group.
- 9.5 Any suspension will be on full pay and for a period of not more than two months and shall be kept under constant review.

**(b) Dismissal**

- 9.6 A relevant officer may not be dismissed by an authority unless the following procedure set out in the Joint Negotiating Committee for Chief Officers of Local Authorities Conditions of Service Handbook is followed:

- (a) the matter has been considered by a standing Investigating and Disciplinary Committee (IDC). The IDC is to be politically balanced with at least 5 members;

*(Note: The current Senior Management Selection Panel is suggested to fulfil the role of the IDC. If agreed the wording of Officer Employment Rules will be amended to reflect this)*

- (b) if the IDC recommend that there is a case to answer then an Independent Investigator will be appointed;
- (c) a full investigation has been undertaken by the Independent Investigator who will provide a report to the IDC and make recommendations on potential disciplinary outcomes;
- (d) the person under investigation has been given opportunity to state their case and be represented at investigation meetings and formal hearings;
- (e) a full hearing of the IDC is held and recommendations made;
- (f) where the recommendation by the IDC is dismissal then an Independent Panel, will be set up consisting of two relevant independent persons;
- (g) the Independent Panel should be a committee of the Council, appointed under section 102(4) of the Local Government Act 1972 and comprise of only independent persons (at least two) appointed under the S28(7) of the Localism Act 2011. The Independent Panel must be appointed at least 20 working days before the relevant meeting;
- (h) the Independent Panel must compile a report for full Council which includes the recommendations of the IDC;
- (i) in the light of the recommendations the full Council should consider the recommendation to dismiss;
- (j) before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular;
- (i) any advice, views or recommendations of the Independent Panel;
  - (ii) the conclusions of any investigation into the proposed dismissal; and
  - (iii) any representations from the relevant officer;
- (k) the meeting with full council fulfils the Appeal Stage in the procedure.

**(c) Councillors**

- 9.7 Councillors will not be involved in the disciplinary action against any member of staff below Chief Officer level, (except relevant officers referred to in paragraph 1(q)) except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time or as otherwise provided for by these Rules.
- 9.8 Other Councillors may participate in such proceedings where there is a right of appeal to members in respect of disciplinary action.

## **10. Disciplinary Panels**

- 10.1 Disciplinary Action short of dismissal in respect of the Chief Executive, Monitoring Officer and Chief Financial Officer may be made by an **Investigation and Disciplinary Panel** comprising not less than seven councillors allocated between political groups in accordance with the Pro Rata Rules and including at least one member of the Executive to consider the report on any disciplinary matters.
- 10.2 The full Council will approve the dismissal of the Chief Executive, Monitoring Officer and Chief Financial Officer following the recommendation of such a dismissal referred to in paragraph 9.6 provided that:
- (a) such dismissal is in accordance with any recommendation made in the report produced by the Independent Panel referred to in paragraph 9.6 and
  - (b) the procedure referred to in paragraph 11 below has been complied with.
- 10.3 Disciplinary Action, including dismissal, in respect of any individuals in the positions of Chief Officers, other than the Chief Executive, Monitoring Officer and Chief Financial Officer, may be undertaken following the procedure in paragraph 9.6;
- 10.4 Disciplinary Action, including dismissal, in respect of any assistants to political groups, may be taken by a panel made up of not less than three councillors from that political group (unless there are less than three councillors affiliated to that party when the panel should be made up of all councillors affiliated to that party).

## **11. Objection by the Executive – Dismissal of a Chief Officer**

- 11.1 In relation to any proposed dismissal of an individual in a Chief Officer post notice of dismissal should not be given until the Proper Officer has been notified of the name of the person that is proposed is to be dismissed and the reasons for the proposed dismissal and the Proper Officer has notified every member of the executive of the authority of:
- (a) the name of the person it is proposed to dismiss;
  - (b) the reasons for the proposed dismissal; and
  - (c) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the Proper Officer.
- 11.2 No notice of dismissal or recommendation for dismissal as the case may be shall be given until either -

- (a) the Executive Leader has, within the period specified above notified the panel proposing to dismiss that neither he nor any other member of the Executive has any objection to the proposed dismissal;
- (b) the Proper Officer has notified the panel that no objection was received by him within that period from the Executive Leader; or
- (c) the relevant panel is satisfied that any objection received from the Executive Leader within that period is not material or is not well founded.

## **12. Redundancy Procedures**

- 12.1 The Epping Forest District Council Redundancy and Redeployment Policy and Procedure does not apply to Chief Officers. However, the principles referred to within that policy will be adhered to so far as is appropriate when considering a potential redundancy situation affecting any individuals who hold any of the above posts and whether to dismiss any such person. Redundancy and/or Early Retirement payments shall apply in full to Chief Officers.
- 12.2 A panel of members comprising not less than seven councillors allocated between political groups in accordance with Pro Rata Rules including at least one member of the Executive will consider whether any persons holding any post referred to in 12.1 above shall be made redundant when it appears there is a need to consider such matters ("the Redundancy Panel").
- 12.3 The Redundancy Panel will, in addition to any other steps that appear to them to be appropriate as referred to in the Redundancy and Redeployment Procedure, be responsible to ensure that:
- (a) any individuals that may be affected by any decisions relating to redundancy are informed at an early stage of the fact that they may so be affected and the reasons for this. Thereafter any such individuals should be kept informed of relevant information pertaining to the redundancy decision making process as it continues;
  - (b) individuals are meaningfully consulted during the redundancy process and, in sufficient information is given to them such as to enable them to understand why such redundancies are being considered and an opportunity is given to those individuals to comment on such information and make alternative proposals with a view to avoiding redundancy;
  - (c) that consideration is given to whether any alternative positions may be available to the affected individuals.
- 12.4 The Redundancy Panel shall ensure that notification is given to the Executive of any proposed decision to dismiss by reason of redundancy in accordance with paragraph 11 above. Such notification is to be made before the Redundancy Panel notifies the individual concerned that it is proposed to recommend to the Council to make that individual redundant in accordance with paragraph 12.5 below.
- 12.5 If the Redundancy Panel decides that a notice of redundancy should be issued to any individual then it should inform the individual concerned of its intention to recommend the Council to do so and inform that individual that they have a right to appeal and the Panel should set a reasonable period for the individual to make such an appeal.

- 12.6 If the individual does not appeal within the set timescale then the full Council will approve the dismissal of the individual concerned following the recommendation of the Redundancy Panel.
- 12.7 If the individual does appeal within the set timescale then a Redundancy Appeal Panel will be appointed which will consist of not less than seven councillors, drawn from political groups in accordance with Pro Rata Rules and including at least one member of the Executive, who will hear and adjudicate upon the appeal.
- 12.8 If the appeal is dismissed then the full Council will approve the dismissal of the individual concerned following the recommendation of the Redundancy Appeal Panel.

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## ***Report to the Constitution Working Group***



**Epping Forest  
District Council**

***Date of meeting: 12 March 2020***

**Committee: Audit & Governance**

**Subject: Revised Terms of Reference**

**Responsible Officer: Sarah Marsh (01992 564446)**

**Democratic Services: V Messenger (01992 564265)**

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### **Recommendations/Decisions Required:**

**(1) That the proposed changes to the Audit & Governance Committee's Terms of Reference be recommended to the Council for approval.**

### **Executive Summary:**

An effective Audit Committee brings many benefits to an organisation and, to ensure that the Council continues to provide an effective Audit & Governance Committee, a review of the Committee's Terms of Reference should be undertaken on an annual basis. The review of the Committee's Terms of Reference undertaken by the Chief Internal Auditor in the autumn of 2019 had highlighted two additions to reflect the Group Company structure being set up by the Council and to encompass any future changes to the provision of internal audit services.

### **Reasons for Proposed Decision:**

To ensure, as a key component of the Council's governance framework, the Audit and Governance Committee continues to be effective and to follow good practice within the sector.

### **Other Options for Action:**

To not amend the Committee's terms of reference; however, this would risk the Committee not being able to fulfil its duty due to changing circumstances of the Council's governance model.

### **Report:**

1. An effective Audit Committee brings many benefits to an organisation. To ensure that the Council continues to provide an effective Audit and Governance Committee, its terms of reference should be considered on an annual basis, which is in line with good practice. The Committee should ensure the terms of reference remain current and up to date and make recommendations for any significant changes to the Council.

2. The Committee last reviewed its terms of reference in November 2018 and proposed no changes at that time, as they remained fit for purpose. The Chief Internal Auditor has carried out a comparison of the Committee's current terms of reference with the 2018 CIPFA model terms of reference and has undertaken benchmarking with the terms of reference of the audit committees operated by Broxbourne Borough Council and Harlow District Council.

3. Two additions to the current terms of reference for the Committee are proposed

(shown underlined in bold in Appendix 1) to reflect its remit as the Council works more collaboratively. These revisions were approved by the Audit & Governance Committee without further amendment at its meeting on 25 November 2019.

4. The terms of reference for the Committee are enshrined within the Constitution, so any changes would be required to be agreed by the full Council. This would normally be on the recommendation of the Constitution Working Group.

**Resource Implications:**

None.

**Legal and Governance Implications:**

To comply with CIPFA guidelines and as part of the process for gathering evidence for the production of the Annual Governance Statement, the Council is required to review the effectiveness of its Audit Committee. This effectiveness review and review of its Terms of Reference ensures that the Council fulfils the requirements of the Accounts and Audit (England) Regulations 2015.

The Accounts and Audit (England Regulations) 2015 requires that a relevant authority must ensure that it has a sound system of internal control which:

- facilitates the effective exercise of its functions and the achievement of its aims and objectives;
- ensures that the financial and operational management of the authority is effective; and
- includes effective arrangements for the management of risk.

The Accounts and Audit Regulations do not specify that these requirements must be met by an audit committee. However, where the audit committee undertakes or reviews the specified task, the audit committee must meet the requirements of the regulations and take them into account in agreeing their terms of reference.

**Safer, Cleaner and Greener Implications:**

None.

**Consultation Undertaken:**

The Corporate Governance Group and the Audit & Governance Committee.

**Background Papers:**

Audit Committees – Practical Guidance for Local Authorities 2018.

**Risk Management:**

The Audit and Governance Committee has a pivotal role in how the Council delivers good governance. The purpose of the Committee is to provide to those charged with governance independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and annual governance process and reviewing the effectiveness of these arrangements.

## ARTICLE 11 - AUDIT AND GOVERNANCE COMMITTEE

### Statement of Purpose

1. The role of the Audit and Governance Committee is a key component of the Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial statements and provides a forum for considering ethical issues and ensuring high standards of conduct.
2. The purpose of the Committee is to provide independent assurance to the members of the adequacy of the risk management framework and internal control environment. It provides independent review of the Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal and external audit arrangements, helping to ensure efficient and effective assurance arrangements are in place.
3. The specific functions of the Committee are:

#### **Governance, risk and control**

- a. to review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances;
- b. to review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account the internal audit opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control;
- c. to note the Council's overall approach to value for money in ensuring the authority is making best use of its resources.
- d. to consider the Council's framework of assurance and ensure it adequately addresses the risk and priorities of the authority;
- e. to monitor the effective development and operation of risk management in the Council;
- f. to monitor progress in addressing risk-related issues reported to the Committee;
- g. to consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions;
- h. to review the assessment of fraud risks and potential harm to the Council from fraud and corruption;
- i. to monitor the anti-fraud strategy, actions and resources;
- j. **to review the governance and assurance arrangements for significant partnerships or collaboration.**

#### **Internal Audit**

- k. to approve the Internal Audit Charter;
- l. **to review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations;**
- m. to approve the internal audit strategy and plan, including internal audit resource requirements, the approach to using other sources of assurances and any work required to place reliance upon these other sources. To approve any significant interim changes to the plan and resource requirements and make appropriate enquires of both management and the Chief Internal Auditor to determine if there any inappropriate scope or resource limitations;

- n. to consider regular reports from the Chief Internal Auditor which:
  - update on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work;
  - highlights concerns about progress with the implementation of agreed actions or where management has accepted a level of risk that the Chief internal Audit considers is unacceptable to the Council;
  - reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement;
- o. To consider the Chief Internal Auditor's annual report, including:
  - the statement of the level of conformance with the Public Sector Internal Audit Standards and results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit;
  - the opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the Committee in reviewing the Annual Governance Statement;
- p. To support the development of effective communication with the Chief Internal Auditor

### **External Audit and Financial Reporting**

- q. to consider the external auditor's annual letter, relevant reports and the report to those charged with governance;
- r. to review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council;
- s. to consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts;
- t. to be responsible for the appointment of the Council's external auditors and ensure it is in line with the requirements of the Local Audit and Accountability Act 2014;

### **Treasury Management**

- u. to be responsible for the scrutiny of the Council's Treasury Management Strategy, including receiving regular reports on activities, issues and trends to support the Committee's understanding of treasury management activities, risks and associated assurances;

### **Accountability arrangements**

- v. to report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions; and
- w. to report to the full Council on a regular basis on the Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose.

## **Membership**

4. The Committee shall comprise 7 members, including 5 Councillors and 2 co-opted members. Councillors serving as members of the Committee shall be appointed at the Annual Council meeting of Epping Forest District Council for a term of office of one year and shall be eligible for re-appointment for further terms of office.
5. Seats on the Committee should be allocated so they are not all drawn from one political group and are also open to Councillors who are not affiliated to any political group.
6. Co-opted members shall serve for a period of 3 years from appointment. Such three year appointments shall be overlapping in terms of their expiry dates. A co-opted member may serve for a total of two such terms as of right but may be considered for two further three year terms, provided he or she is successful after open competition following public advertisement. Re-appointment for further terms shall be subject to satisfactory attendance.
7. Casual vacancies for members of the Committee who are Councillors which occur shall be filled at the next ordinary Council meeting (but not an extraordinary meeting) with a term of office expiring on the date of the next Annual Council meeting.

## **Eligibility for Membership - Councillor Members**

8. Councillors appointed to the Audit and Governance Committee may not also be members of the Cabinet or any select Committee appointed by the Overview and Scrutiny Committee with responsibility for reviewing the Council's finances or financial procedures.
9. A Portfolio Holder Assistant (other than any Assistant involved in any portfolio dealing primarily with the Council's finances) appointed by the Leader of the Council shall be eligible for appointment to the Committee.
10. Appointment of Councillors shall be made on the basis of evidence of the aptitude, experience or interest and for this purpose the normal rules for pro rata appointments shall not apply.
11. Formal attendance standards be operated in respect of the three Councillor members when reappointment is under consideration by the Council's Appointments Panel and the Chairman and co-opted members of the Audit and Governance Committee be consulted informally about the appointment or reappointment of Councillors at the appropriate time.

## **Co-opted members**

12. Co-opted members, independent of the Council, shall be appointed by the Council on the basis of their professional expertise, experience and background as relevant to the role and responsibilities of the Audit and Governance Committee. Initial appointments of co-opted members and the filling of casual vacancies shall be made following public advertisement and interview, the latter conducted in accordance with arrangements agreed by the Council. If the number of suitable applicants exceeds the number of co-opted places on the Committee, the Council shall keep a waiting list of suitable applicants should casual vacancies occur.

## **Chairman and Vice-Chairman**

13. The Chairman and Vice Chairman of the Audit and Governance Committee shall be appointed at the first meeting of the Committee in each Council year for a term of one year expiring on the date of the first meeting of the Committee of the next Council year.

14. Casual vacancies in the position of Chairman and Vice-Chairman shall be filled in the same way as required in respect of members of the Committee;
15. Both Councillors and co-opted members serving on the Committee shall be eligible for appointment to the office of Chairman and Vice-Chairman.
16. Where the Chairman of the Committee is a Councillor, the Vice-Chairman will be appointed from among the Co-opted members. Where the Chairman is one of the Co-opted members, the Vice-Chairman shall be a Councillor.
17. The Chairman and Vice-Chairman shall be eligible for re-appointment.

### **Meetings of the Committee**

18. The Committee shall meet at least three times each financial year.
19. The Committee shall be entitled to require any Member, Director, their representatives or any other officer to attend their meetings in order to discuss any matters under discussion including the annual audit programme.

### **Decision Making**

20. Only the Councillors and co-opted members serving on the Committee shall be entitled to vote.
21. All members of the Committee shall be entitled to all documents advice and facilities relevant to their membership of the Committee, regardless of their status as either a Councillor or Co-opted member.

### **Other Requirements**

22. All members of the Committee shall respect the confidentiality of Council information and proceedings where appropriate, particularly where exempt or confidential business is involved.
23. All co-opted members of the Committee shall be required to make a statutory registration of interests in the same form as those required of serving Councillors and to be aware at all times of the requirement to clear any interest relating to their work on the Committee.
24. Members of the Committee should seek to attend all meetings of the Committee unless there are exceptional circumstances which prevent this.
25. All members of the Committee should ensure that they participate fully in any training designed to assist them in their responsibilities as members of the Committee. Similarly all members should act on appropriate advice and other information supplied by the Council to improve their effectiveness.

## **Report to the Constitution Working Group**

**Date of meeting:** 12 March 2020



**Epping Forest  
District Council**

**Committee:** Audit & Governance Committee  
Finance & Performance Management Cabinet Committee

**Subject:** Risk Management Responsibilities

**Responsible Officer:** Sarah Marsh (01992 564446)

**Democratic Services:** V Messenger (01992 564265)

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### **Recommendations/Decisions Required:**

(1) That the transfer of the responsibility for the reviewing of, and recommending revisions to, the Corporate Risk Register from the Finance & Performance Management Cabinet Committee to the Audit & Governance Committee be recommended to the Council for approval.

### **Executive Summary:**

This report seeks to gain approval for the transfer of responsibilities for reviewing of the Corporate Risk Register from the Finance & Performance Management Cabinet Committee to the Audit & Governance Committee.

### **Reasons for Proposed Decision:**

To enhance the operation of the Council's risk management function.

### **Other Options for Action:**

Formal responsibility for making recommendations to Cabinet on risk management issues remains with the Finance and Performance Management Cabinet Committee; however, this would in contravention of best practice as recommended by the Chartered Institute of Public Finance & Accountancy.

### **Report:**

1. At the committee level, formal responsibility for risk management lies with two committees as per their Terms of Reference:

- (i) Finance and Performance Management Cabinet Committee – to advise and make recommendations to the Cabinet on risk management and insurance issues; and
- (ii) Audit and Governance Committee - to monitor the effective development and operation of risk management in the Council.

2. The Chartered Institute of Public Finance and Accountancy (CIPFA) audit committees – Practical Guidance for Local Authorities and Police 2018 edition states that Audit Committees

should '*consider the effectiveness of the authority's risk management arrangements and the control environment, reviewing the risk profile of the organisation and assurances that action is being taken on risk-related issues, including partnerships and collaborations with other organisations*'.

3. Currently the Finance and Performance Management Cabinet Committee reviews the Corporate Risk Register, agrees any updates recommended by the Risk Management Group, considers whether any new or emerging risks that are not on the corporate risk register and pass on recommendations to the Cabinet for their approval.

4. The Audit and Governance Committee receives a copy of the most up to date corporate risk register at each of their meetings in order to provide context for their meeting. On an annual basis (March) they receive a report on the effectiveness of the arrangements for risk management from the Council's Section 151 Officer. Following the staff restructure responsibility for championing risk management now lies with the Service Director – Commercial and Regulatory, who chairs the officer Risk Management Group

5. In line with CIPFA guidance, and consistent with the practice adopted by many other councils, the proposal is for the review of the corporate risk register and subsequent recommendation to Cabinet should lie with the Audit and Governance Committee, rather than the Finance and Performance Management Cabinet Committee. The view of the Chairman of both Committees has been sought and they agree with the proposal.

6. It is envisaged the Audit and Governance Committee would review and comment on the corporate risk register on a quarterly basis, supplemented with a more in-depth review of an individual risk on a rolling or risk basis.

7. The terms of reference for each committee are enshrined within the Constitution, so any changes would be required to be agreed by the full Council. Changes to the Constitution are usually only considered by the Council on the recommendation of the Constitution Working Group.

8. The Council's Risk Management Strategy will be revised and updated to reflect the new monitoring and reporting arrangements, if they are endorsed by this Group and subsequently approved by the Council.

**Resource Implications:**

None.

**Legal and Governance Implications:**

Changes to the Constitution must be approved by full Council.

**Safer, Cleaner and Greener Implications:**

None.

**Consultation Undertaken:**

The Corporate Governance Group.

The Chairman of the Finance & Performance Management Cabinet Committee.

The Audit & Governance Committee.



**Background Papers:**

CIPFA audit committees – Practical Guidance for Local Authorities and Police 2018 edition

**Risk Management:**

If the Corporate Risk Register was not regularly reviewed and updated a risk that threatened the achievement of corporate objectives might either not be managed or be managed inappropriately. In addition, new or emerging risks are not considered which could threaten achievement of the Council's corporate objectives.

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## ***Report to the Constitution Working Group***

***Date of meeting:*** 12 March 2020



**Epping Forest  
District Council**

**Portfolio:** Leader of the Council

**Subject:** Audit and Governance and Standards Committees – Review of  
Merger Proposals

**Responsible Officer:** Sarah Marsh (01992 564446)

**Democratic Services Officer:** Vivienne Messenger (01992 564265)

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### **Recommendations/Decisions Required:**

- (1) The Working Group reviews the proposals for the merger of the Audit and Governance Committee with the Standards Committee.**

### **Executive Summary:**

In 2016 a proposal was made to merge the Audit and Governance Committee with the Standards Committee. This was not adopted by Council who instead asked the Constitution Working Group to review the proposal in two years' time.

The Constitution Working Group visited this in 2018 and agreed to defer the review as the structure of the Council's departments was changing significantly. The restructure is now completed, and the Constitution Working Group is asked to revisit the original proposals with some provisos to address concerns raised previously by the Standards Committee.

### **Reasons for Proposed Decision:**

To revisit the option to merge the Audit and Governance Committee and the Standards Committee.

### **Other Options for Action:**

None.

### **Report:**

#### Background

- The Council, at its meeting on 18 February 2016, considered the results of a review of the desirability of combining the Audit and Governance Committee and the Standards Committee. At that meeting, the Council concluded the proposals for a merged committee not be adopted as part of the changes to the Constitution but for a review of the position to take place after two years.
- As requested by Council, the Constitution Working Group revisited the merger proposal at its 16 April 2018 meeting. The original report to the Working Group in April 2018 is

attached as appendix 1.

3. At the April 2018 meeting the Assistant Director (Governance) advised the Working Group to defer the review, as the structure of the Council's departments was changing significantly with the replacement of the old directorates. In addition, at the time there was a possibility of a change in structure of the Overview and Scrutiny Committees to reflect the new directorate structure. On this basis, the Working Group agreed to defer the review of the merger until the Council's new structure was much clearer.
4. Since then the Council has undertaken a restructure and replaced the previous four directorates with seven service areas, with Portfolio Holders aligned to each of these. In addition, the four directorate select committees have been reduced to three, aligned with the Council's three corporate objectives (Stronger Place, Stronger Communities, Stronger Council).

#### Next steps

5. The views of both the Audit and Governance Committee and Standards Committee should be sought to establish if there is an appetite to merge the two committees by considering the following provisos to address concerns raised in 2018:
  - A higher number of members for the new Committee. Currently there are nine Members available to consider Standards issues, which would have been reduced to three under the initial proposals.
  - Ask Council to create a specific group to deal with Standards Investigation Hearings that would meet on an ad hoc basis, i.e. as the need arises.
  - With regards to a perceived lack of involvement of Parish Councils as currently there are three representatives from the Local Councils affiliated to the District Council's Standards Committee:
    - Ask that all agendas are notified to Parish and Town clerks that are aligned to the District's Standards Committee
    - Ask that existing parish representatives be invited to attend meetings of the new committee as they consider necessary.
    - Change the Terms of Reference to include that any hearing into a Parish/Town Councillor includes an appropriate representative.

#### **Resource Implications:**

No specific implications.

#### **Legal and Governance Implications:**

The Council's Constitution sets out procedures and rules for the operation of its functions and responsibilities.

#### **Safer, Cleaner and Greener Implications:**

No specific implications.

**Consultation Undertaken:**

The Council's Monitoring Officer

**Background Papers:**

Minutes of 18 February 2016 Council meeting

Minutes of the 16 April 2018 Constitution Working Group

**Risk Management**

Adherence to Council's Constitution reduces the risk of challenge when making constitutional changes.

**Equality Analysis:**

There are no equality implications arising from the recommendations of this report.

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## **Report to the Constitution Working Group**



**Epping Forest  
District Council**

**Date of meeting: 16 April 2018**

**Subject: Audit and Standards Committee – Review of Merger Proposals**

**Responsible Officer:** Simon Hill (01992 564249)

**Democratic Services:** Gary Woodhall (01992 564470)

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### **Recommendations/Decisions Required:**

- (1) That, as required by the Council, the Working Group reviews the proposals for the merger of the Audit and Governance Committee with the Standards Committee.**

### **Report:**

1. (Deputy Monitoring Officer) The Council, at its meeting on 26 April 2016, considered the results of a review of the desirability of combining the Audit and Governance and Standards Committees.
2. At that meeting, the Council concluded that the proposals for a merged committee not be adopted as part of the changes to the constitution but that there be a review of this position after two years, and that the Standards Committee be convened to meet only when there is business to be transacted.
3. The review is required before the end of the municipal year in April 2018.
4. Since that time this Committee has met twice, once in January 2017 and once in August 2017 for a total of two hours meeting time. In the last three and a half years the Committee has only met five times for a total of four hours and five minutes.
5. At the time of the last review this Committee expressed the view that they accepted that the implementation of the new arrangements for dealing with allegations of Member misconduct under the Localism Act 2011 had dramatically reduced its workload. However, the Committee was not minded to support the proposals and expressed a number of concerns regarding the proposed merger:
  - (i) there were currently 9 Members available to consider Standards issues, which would reduce to 3 under the proposals and it was felt by the Committee that this was not enough;

The Committee suggested that the Working Group could:

- Recommend a higher number of members for the new Committee
- Ask Council to create a specific group to deal with Standards Investigation Hearings either on an ad hoc or standing basis.

(ii) there was a perceived lack of involvement of Parish Councils under the proposals as currently there were three representatives from the Local Councils affiliated to the District Council's Standards Committee formally invited to each meeting; and

The Committee suggested that the Working Group could:

- Ask that all agendas are notified to Parish and Town clerks that are aligned to the Districts Standards Committee
- Ask that existing parish representatives be invited to attend meetings of the new committee as they consider necessary
- Change the Terms of reference to include that any hearing into a Parish/Town Councillor includes an appropriate representative.

(iii) there was a perceived risk that a smaller Committee would be less objective when considering Standards issues.

6. The original report to Committee, made in January 2016 is attached which contained the proposals at that time for a combined committee and a new terms of reference.

7. The Standards Committee were asked to comment on the review in December 2017 and they remain of the view that a merger is not favoured for the following reasons:

(i) That combining Standards with a technical committee would give the perception of making it the poor relation and would not keep standards matters in members minds;

(ii) That the current levels of involvement by the parishes would be placed at risk; and

(iii) That the public perception of the District taking a lead in standards was the most important factor.

8. The Working Group is asked to form a view and make a recommendation to the Council if appropriate.



## **Report to the Standards Committee**

**Report Reference: STD-002-2015-16**

**Date of meeting: 25 January 2016**



**Epping Forest  
District Council**

**Subject: Audit & Standards Committee – Proposed  
Terms of Reference**

**Responsible Officer: Colleen O'Boyle (01992 564475)**

**Democratic Services: Gary Woodhall (01992 564470)**

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### **Recommendations/Decisions Required:**

- (1) To approve in principle the proposed merger of the Audit & Governance Committee and the Standards Committee;**
- (2) To consider and approve the proposed Terms of Reference for the new Audit & Standards Committee; and**
- (3) To request the Constitution Working Group to consider the necessary constitutional amendments and report to the Council accordingly.**

### **Report:**

#### Merging Audit and Standards Committee

1. The main role of the Standards Committee is to promote and maintain high standards of conduct by members. Matters around member conduct at committee level are relatively light and three of the six scheduled meetings have been cancelled in the last 18 months (9 October 2014, 8 January 2015 & 7 April 2015).
2. The Council's Audit and Governance Committee is responsible for providing independent assurance of the adequacy of the Council's risk management framework and provides independent scrutiny of the authority's financial and non-financial performance. The Committee approves the financial statements and Annual Governance Statement and enhances public trust and confidence in the governance of the authority.
3. A number of other councils have combined audit and standards committees successfully, including Broxbourne and Harlow Councils, the main drivers for this being:
  - Low complaint activity especially as the Monitoring Officer has delegated authority to seek to resolve a complaint informally where a formal investigation is not merited; and
  - Similarities and synergies – both Committees deal with governance, probity and transparency of processes.
4. There is by law an independent person appointed by the Council who advises on standards issues but is not permitted to be a member of the committee. This requirement has been incorporated into the proposed Terms of Reference which states:

*'the Council is required to appoint at least one Independent person to advise on Standards relating to complaints who shall be invited to meetings in a non-voting capacity'.*

5. There is no requirement to have independent members although the Council can appoint independent members to committees and the current Audit and Governance Committee has two independent members, and this arrangement should continue as it is line with good practice. It should be noted that Harlow District Council does not have any independent members on their Audit and Standards Committee but Broxbourne Council has an independent Chair.

6. It is important the new committee considers Standards issues at each meeting so it is proposed to have standards as a standing item on its agenda

#### Proposed Terms of Reference

7. The newly merged Audit and Standards Committee would have the objective of making a positive contribution to the Council's governance and control environment. The proposed terms of reference articulate the Committee's wide remit including advising and reviewing the Council's arrangements for internal audit, internal control, risk management, financial management, standards and corporate governance. The Committee also has an important role in ensuring public money is spent wisely and providing assurance to the public that the council is complying with the law, has an effective control framework in place and provides quality services in line with corporate priorities.

8. The proposed Terms of Reference for the Audit and Standards Committee (Appendix 1) draws on the experience of merging the Audit and Standards Committee at Broxbourne and Harlow Councils and is based on model Terms of Reference for local authorities as detailed in the Chartered Institute of Public Finance and Accountancy publication: Audit Committees - Practical Guidance for Local Authorities and Police 2013 Edition.

#### The View of the Audit & Governance Committee

9. The Audit & Governance Committee considered these proposals at its meeting held on 30 November 2015. The Committee welcomed the proposals and were in general agreement that the two Committees should merge as it would be more efficient and lead to a (albeit small) reduction in the number of Member meetings each year. It was also felt that oversight of the Council's Treasury Management function should remain with the new Committee, rather than transferring to the Resource Select Committee.

10. The Committee resolved to approve the merger of the two Committees in principle, along with the proposed Terms of Reference, and requested that the views of the Standards Committee be sought on the matter.

#### Conclusion

11. The Standards Committee is requested to consider the proposals and indicate if they are in agreement with the proposed merger of the two Committees. If the Committee is in favour then the proposed Terms of Reference for the new Committee is attached at Appendix 1 for the Committee to consider, propose amendments if necessary, and approve.

12. Final approval for the merger of the Audit and Standards Committee will need to be sought from the Council following formal consultation with both Committees. The Constitution Working Group would be asked to review the proposed new merged Articles and report to the Council accordingly.

## Proposed Terms of Reference for Epping Forest District Council Audit and Standards Committee

### **Statement of Purpose**

1. The role of the Audit and Standards Committee is a key component of the council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial statements and provides a forum for considering ethical issues and ensuring high standards of conduct. The role of the committee is two-fold:
  - Audit - the purpose of the Committee is to provide independent assurance to the members of the adequacy of the risk management framework and internal control environment. It provides independent review of the council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal and external audit arrangements, helping to ensure efficient and effective assurance arrangements are in place.
  - Standards – The Committee deals with a range of matters including issues concerning Councillor's conduct, provides advice and guidance to the Council, the Cabinet and individual Councillors and advises on the application and review of the Members' Code of Conduct.

### **Governance, risk and control**

2. To review the council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances
3. To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account the internal audit opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
4. To note the council's overall approach to value for money in ensuring the council is making best use of its resources.
5. To consider the council's framework of assurance and ensure it is adequately addresses the risk and priorities of the council.
6. To monitor the effective development and operation of risk management in the council.
7. To monitor progress in addressing risk-related issues reported to the committee
8. To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions
9. To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
10. To monitor the anti-fraud strategy, actions and resources.

### **Internal Audit**

11. To approve the Internal Audit Charter
12. To approve the internal audit strategy and plan, including internal audit resource requirements, the approach to using other sources of assurances and any work required to place reliance upon these other sources. To approve any significant interim changes to the plan and resource requirements and make appropriate enquires of both management and the Chief Internal Auditor to determine if there any inappropriate scope or resource limitations.
13. To consider regular reports from the Chief Internal Auditor which:
  - Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work
  - Highlighting where there are concerns about progress with the implementation of agreed actions or where management has accepted a level of risk that the Chief internal Audit considers is unacceptable to the council.
  - Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement
14. To consider the Chief Internal Auditor's annual report:
  - The statement of the level of conformance with the Public Sector Internal Audit Standards and results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit
  - The opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the Annual Governance Statement.
15. To support the development of effective communication with the Chief Internal Auditor.

### **External Audit and Financial Reporting**

16. To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
17. To review the annual statement of accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
18. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
19. To be responsible for the appointment of the Council's external auditors and ensure it is in line with the requirements of the Local Audit and Accountability Act 2014.

### **Treasury Management**

20. To be responsible for the scrutiny of the Council's Treasury Management Strategy, including receiving regular reports on activities, issues and trends to support the committee's understanding of treasury management activities, risks and associated assurances.

### **Accountability arrangements**

21. To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions.
22. To report to the full Council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

### **Membership**

23. The committee shall comprise 5 members, including 3 Councillors and 2 co-opted members. Additionally the Council is required to appoint at least 1 Independent Person to advise on Standards relating to complaints who shall be invited to meetings in a non-voting capacity.
24. Councillors serving as members of the Committee shall be appointed at the Annual Council meeting of Epping Forest District Council for a term of office of one year and shall be eligible for re-appointment for further terms of office.
25. That the seats should be allocated so they are not all drawn from one political group and are also open to councillors who are not affiliated to any political group.
26. Co-opted members shall serve for a period of 3 years from appointment. Such three year appointments shall be overlapping in terms of their expiry dates. A co-opted member may serve for a total of two such terms as of right but may be considered for two further three year terms, provided he or she is successful after open competition following public advertisement. Re-appointment for further terms shall be subject to satisfactory attendance.
27. Casual vacancies for members of the Committee who are Councillors which occur shall be filled at the next ordinary Council meeting (but not an extraordinary meeting) with a term of office expiring on the date of the next Annual Council meeting.

### **Standards Committee**

28. Promoting and maintaining high standards of conduct by Councillors and Co-Opted Members.
29. Assisting Councillors and Co-Opted Members to observe the Members' Code of Conduct.
30. Advising the Council on the adoption or revision of the Members' Code of Conduct
31. Monitoring the operation of the Members' Code of Conduct.

32. Advising, and/or censuring and/or imposing a sanction on a Councillor or Co-Opted person of a Committee (or former Councillor or Co-Opted person) of the Council.
33. To advise the Council to ensure that all members of the Council have access to training in all aspects of the Member Code of Conduct.
34. Considering dispensations to Councillors and Co-Opted Members (including Parish and Town Councillors) from requirements relating to interests set out in the Members' Code of Conduct.
35. Dealing with reports referred from or on behalf of the Monitoring Officer on any matter, including investigations relating to Councillor conduct.
36. The exercise of (29) to (35) above shall apply to parish councils and their members either directly or through a joint standards arrangement
37. Adjudication on complaints regarding the operation of District Council protocols annexed to the Constitution.
38. The Committee may appoint a Complaints Sub Committee to conduct any hearing into an allegation that a Member or Co-opted Member has breached the Council's Code of Conduct. The Audit and Standards Committee shall decide the membership of the subcommittee, ensuring where possible there is a minimum of three members of the Audit and Standards Committee.
39. The Complaints Sub Committee will undertake the following functions:
  - To conduct any Hearing into an allegation that a Member or Co-opted Member has breached the Council's Code of Conduct.
  - Following a hearing, make one of the following findings:
    - That the Member has not failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the hearing: or
    - That the Member has failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the matters considered at the hearing: or
    - That the Member has failed to comply with the Code of Conduct and that a sanction and/or informal resolution should be imposed. The subcommittee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions as are available to it by law or policy.
  - After making a finding, providing written notice of its findings and the reasons for its decision to the Member and complainant.

## **Eligibility for membership**

### **Councillor members**

40. Councillors appointed to the Audit and Standards Committee may not also be members of the Cabinet or any select committee appointed by the Overview and Scrutiny Committee with responsibility for reviewing the Council's finances or financial procedures.
41. A Portfolio Holder Assistant (other than any Assistant involved in any portfolio dealing primarily with the Council's finances) appointed by the Leader of the Council shall be eligible for appointment to the Committee.
42. Appointment of Councillors shall be made on the basis of evidence of the aptitude, experience or interest and for this purpose the normal rules for pro rata appointments shall not apply.
43. Formal attendance standards be operated in respect of the three councillor members when reappointment is under consideration by the Council's Appointments Panel and the Chairman and co-opted members of the Audit and Standards Committee be consulted informally about the appointment or reappointment of councillors at the appropriate time.

### **Co-opted members**

44. Co-opted members, independent of the Council, shall be appointed by the Council on the basis of their professional expertise, experience and background as relevant to the role and responsibilities of the Audit and Standards Committee. Initial appointments of co-opted members and the filling of casual vacancies shall be made following public advertisement and interviews, the latter conducted in accordance with arrangements agreed by the Council. If the number of suitable applicants exceeds the number of co-opted places on the Committee, the Council shall keep a waiting list of suitable applicants should casual vacancies occur.

### **Chairman and Vice Chairman**

45. The Chairman and Vice Chairman of the Audit and Standards Committee shall be appointed at the first meeting of the Committee in each Council year for a term of one year expiring on the date of the first meeting of the Committee of the next Council year.
46. Casual vacancies in the position of Chairman and Vice Chairman shall be filled in the same way as required in respect of members of the Committee (see paragraph 28 above).
47. Both Councillors and co-opted members serving on the Committee shall be eligible for appointment to the office of Chairman and Vice Chairman.
48. Where the Chairman of the Committee is a Councillor, the Vice Chairman will be appointed from among the Co-opted members. Where the Chairman is one of the Co-opted members, the Vice Chairman shall be a Councillor.
49. The Chairman and Vice Chairman shall be eligible for re-appointment.

**Parish/Town Councils**

50. Parish/Town Councils affiliated to the Standards Committee will be sent meeting agendas and invited to attend where appropriate.

**Meetings of the Committee**

51. The Committee shall meet at least three times each financial year.
52. The Committee shall be entitled to require any Member, Director, their representatives or any other officer to attend their meetings in order to discuss any matters under discussion including the annual audit programme.

**Decision Making**

53. Only the Councillors and co-opted members serving on the Committee shall be entitled to vote.
54. All members of the Committee shall be entitled to all documents advice and facilities relevant to their membership of the Committee, regardless of their status as either a Councillor or Co-opted member.

**Other Requirements**

55. All members of the Committee shall respect the confidentiality of Council information and proceedings where appropriate, particularly where exempt or confidential business is involved.
56. All co-opted members of the Committee shall be required to make a statutory registration of interests in the same form as those required of serving councillors and to be aware at all times of the requirement to clear any interest relating to their work on the Committee.
57. Members of the Committee should seek to attend all meetings of the Committee unless there are exceptional circumstances which prevent this.
58. All members of the Committee should ensure that they participate fully in any training designed to assist them in their responsibilities as members of the Committee. Similarly all members should act on appropriate advice and other information supplied by the Council to improve their effectiveness.



## **Report to the Constitution Working Group**



**Date of meeting:** 12 March 2020

**Epping Forest  
District Council**

**Subject:** Overview & Scrutiny Committees – Co-option of Members

**Responsible Officer:** Gary Woodhall (01992 564470)

**Democratic Services:** Vivienne Messenger (01992 564265)

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### **Recommendations:**

**(1) That the draft revised protocol for the co-option of non-elected Members to the Council's Overview and Scrutiny Committees be recommended to the Council for approval.**

### **Report:**

1. At its meeting on 28 January 2020, the Overview and Scrutiny Committee considered a draft revised protocol for the co-option of independent members to the Council's Overview and Scrutiny committees.

2. The Council's current arrangements for the co-option of non-elected members to the Overview and Scrutiny Committees are enshrined within Article 6 (Overview and Scrutiny) of the Constitution. Paragraph (6) states that:

*"6... The Overview and Scrutiny Committee shall be entitled to recommend to the Council the appointment of appropriate persons as non-voting co-optees."*

3. Previously, this process had been followed to appoint representatives of the Epping Forest Youth Council to membership of the former Communities Select Committee. In addition, the Chairman of the Tenants & Leaseholders Federation (TLF) was an active co-opted member of the same former Select Committee.

4. With the introduction of the new Select Committee arrangements at the start of this municipal year, the Service Director for Housing & Property Services had suggested that the Chairman of the Tenants & Leaseholders Forum (what is now the TLF) should be co-opted onto the Stronger Communities Select Committee, whilst the Epping Forest Youth Council was also keen to secure co-opted membership of the same Select Committee.

5. Consequently, the Overview and Scrutiny Committee has considered proposals for appropriate selection procedures and criteria for the appointment of co-opted Members to the Council's Overview & Scrutiny Committees. This would bring the co-option of independent members for the Select Committees in line with the existing arrangements for the Audit & Governance Committee, Standards Committee and the Remuneration Panel (which was entirely composed of independent Members).

6. This draft protocol has been submitted to the Working Group and is attached at Appendix 1 of this report. The Working Group is requested to consider the draft protocol and recommend its approval to the Council.

7. The Working Group is reminded that the Members' Allowances Scheme for the current municipal year provides for the application of an annual allowance of £500.00 for co-opted independent Members of an Overview and Scrutiny Committee. Any proposals for revision to this element of the Scheme would be required to be considered by the independent advisory Remuneration Panel, whose views on which the Council would be required to pay regard.

**Resource Implications:**

Any significant increase in the number of members co-opted to the Council's overview and scrutiny committees, would be likely to affect the current and future level of budget provision for members allowances.

**Legal and Governance Implications:**

The Local Government Act 2000 confers power on the Council to co-opt non-voting members to membership of its Overview and Scrutiny Committees.

**Safer, Cleaner and Greener Implications:**

There are no implications arising from the recommendations of this report in respect of the Council's commitment to the Climate Local Agreement, the corporate Safer, Cleaner, Greener initiative, or any crime and disorder issues within the District.

**Consultation Undertaken:**

The draft protocol for the co-option of Members to the Overview and Scrutiny Committees has been developed at the request of the Overview & Scrutiny Committee.

**Background Papers:**

None.

**Risk Management:**

The Council's Constitution (Article 6) sets out the arrangements for the co-option of independent Members to the Council's Overview & Scrutiny Committees.

## **OVERVIEW & SCRUTINY COMMITTEES - CO-OPTION OF MEMBERS**

### **PROTOCOL**

#### **1. INTRODUCTION**

- 1.1 The Local Government Act 2000 confers power on the Council to co-opt non-voting members to membership of its overview and scrutiny committees. The Council's Constitution reflects this legislative arrangement within Article 6 (Overview and Scrutiny) and, for the purposes of this Protocol, concerns the appointment of co-opted members to the Overview and Scrutiny Committee, Select Committees and any ongoing Task and Finish Panels.
- 1.2 The Council values input from others when considering issues that relate to services that it provides to residents of the Epping Forest District. Co-opted members are non-elected members, who are appointed where specialist input is required or where an outside view of the Council can be useful in guiding deliberations of the overview and scrutiny committees. Co-opted members make a valuable contribution to debate and discussion and help make decisions in relation to important matters.
- 1.3 The co-option of non-elected persons to the Council's overview and scrutiny committees, in a non-voting capacity, can allow the knowledge of such committees to be broadened and provide an opportunity for community engagement in the democratic process. Co-opted members can be a valuable part of the overview and scrutiny process, bringing diverse experience and adding a different perspective to scrutiny activity. Co-opted members can also add value to the scrutiny process by considering service provision from a customer perspective and acting as a channel for questions from outside the authority.

#### **2. THE ROLE OF CO-OPTED MEMBERS**

- 2.1 Co-opted members are more removed from the Council as an organisation than elected members and are therefore in a position to challenge service issues and assist in the holding of service delivery and performance to account.
- 2.2 Co-opted members should actively contribute to debate and discussion at meetings of overview and scrutiny committees to which they have been appointed to serve.

#### **3. APPOINTMENT OF CO-OPTED MEMBERS**

- 3.1 The Constitution (Article 6 - Overview and Scrutiny) provides that the Overview and Scrutiny Committee shall be entitled to recommend to the Council the appointment of appropriate persons as non-voting co-optees.
- 3.2 When considering whether to recommend the appointment of co-opted members to the Council, the Overview and Scrutiny Committee should consider all options available to the Select Committees and Task and Finish Panels to support scrutiny activity, including the calling of expert and other witnesses on a temporary basis or direct consultation with local communities or relevant organisations. In making a recommendation for the appointment of co-opted members to the Council, the Overview and Scrutiny Committee should consider the following matters in the context of the terms of reference of the relevant committee and its current work programme:

- the range of skills and knowledge the Committee will require to effectively conduct its work-programme;
  - the range of skills and knowledge that the existing (elected and co-opted) members of the committee are already able to offer;
  - any gaps in the required skills and/or knowledge that a co-opted member could fill;
  - whether the need for these skills and knowledge is time-limited and could alternatively be filled by the receipt of evidence from interested parties and expert witnesses, or whether the additional expertise of a co-opted member is required on an on-going basis;
- 3.3 It is important that co-opted members of an overview and scrutiny committees should be able to represent specific areas of interest or issues requiring consideration and are appointed on the basis of their level of knowledge and experience of relevant issues, so that they are able to make informed contribution to debate, discussion and the consideration of recommendations or decisions.
- 3.4 Overview and scrutiny committees may therefore invite non-voting co-opted members from a range of organisations, including local public, voluntary, private and community bodies, to serve on a committee (or any current task and finish panel) as considered appropriate.
- 3.5 It may also be appropriate for overview and scrutiny committees to invite individuals as co-opted members who have no connection with a particular organisation, but who have particular specialist knowledge and experience in matters to be considered by a committee. In any event, the purpose of co-option should be to add value to the work of the committee (or task and finish panel).
- 3.6 To inform the process of recommendation for appointment as a co-opted member, the Overview and Scrutiny Committee should:
- identify the range of experience, skills, knowledge and expertise required and seek nominations from organisations and individuals who demonstrate those requirements;
  - guard against seeking nominations from organisations or individuals with a single-issue perspective or personal agenda;
  - determine the number of appointments to be sought;
  - consider advertising for interest to serve as co-opted members;
  - identify organisations that could fill identified gaps in required experience, skills, knowledge and expertise;
  - consider approaching voluntary and community sector organisations to seek nominations where there is an identified need to balance membership to reflect the experience of all sectors of the community.
- 3.7 Appointment as a co-opted member will be for a period to be determined by the Overview and Scrutiny Committee but, in any event, may not be for a period exceeding the end of the current municipal year. Subject to annual review, co-opted members may be re-appointed for further period of one year if considered appropriate.
- 3.8 The Overview and Scrutiny Committee should consider and review the re-appointment of all co-opted members on an annual basis, although co-option may be considered at any time. If appropriate, existing co-opted members will usually be re-appointed to the relevant committee at the annual meeting of the Council.

- 3.9 In determining the number of co-opted members to be appointed to overview and scrutiny committees, the Overview and Scrutiny Committee should ensure that membership achieves a balance between the representative role of elected Members and the value that can be added through bringing a range of skills and perspectives to the work of overview and scrutiny committees.
- 3.10 No more than two non-voting co-opted members may be appointed to serve on any overview and scrutiny committee at any one time.
- 3.11 If a co-opted member fails (without the agreement of the Council) to attend a meeting of any overview and scrutiny committee to which they have been appointed throughout a period of six months, they will cease to be a co-opted member.

#### **4. THE QUALITIES OF CO-OPTED MEMBERS**

- 4.1 Co-opted members of an overview and scrutiny committee will be expected to demonstrate the following qualities:
- have an interest in local government and an understanding of where overview and scrutiny fits into the Council's structure;
  - effective communication skills, with the ability to listen and question effectively;
  - ability to interpret and assess information to identify issues and propose solutions;
  - ability to consider issues from a range of points of view and an open-minded approach;
  - ability to work co-operatively in both formal and informal settings; and
- 4.2 All co-opted members will be expected to demonstrate a commitment to improving outcomes for the district.

#### **5. THE EXPECTATIONS OF CO-OPTED MEMBERS**

- 5.1 Co-opted members of an overview and scrutiny committee are expected to:
- demonstrate a commitment to regularly attend meetings of any overview and scrutiny committee to which they have been appointed;
  - prepare in advance of a meeting, by reading published agenda and reports for each meeting of an overview and scrutiny committee to which they have been appointed;
  - contribute constructively towards debate and discussions at meetings of overview and scrutiny committees and play an active role in contributing to the development of policy on all matters, not just those within their specialist expertise;
  - bring specialist knowledge and/or skills to debate and discussion on relevant matters, particularly relating to any organisation that they represent;
  - bring an element of external challenge to the committee, through any representational role and by relating to issues as viewed by members of the public;
  - attend relevant development and training opportunities provided or facilitated by the Council, to support them in the undertaking of their role;
  - recognise that (where relevant) they are representing other organisations in carrying out their role as a co-opted member, reporting back to any such organisation and undertaking relevant consultation to ensure that decisions or proposed policies reflect identified concerns;

- be willing to share their knowledge and experience of relevant matters to be considered by an overview and scrutiny committee; and
  - contribute to the process of identifying issues for consideration by overview and scrutiny committees; and
  - promote awareness, understanding and interest in the work of the Scrutiny Committees;
- 5.2 Overview and scrutiny committees will take account of the views of co-opted members in reaching a decision or formulating recommendations on any particular issue.

## **6. SUPPORT FOR CO-OPTED MEMBERS**

- 6.1 On appointment, co-opted members will be given an induction into the requirements of the Code of Conduct, including the registration and declaration of interests. Co-opted members will also be provided with an introduction to how the Council works.
- 6.2 Co-opted members will be able to seek the support of the relevant lead officer or Democratic Services Officer in respect of any issue involving procedural or other aspects of the operation of meetings of an overview and scrutiny committee to which they have been appointed.
- 6.3 Co-opted members will be notified of the date and time of meetings of an overview and scrutiny committee to which they have been appointed and will be provided with the agenda and reports pack for such for meetings.
- 6.4 Co-opted members will be entitled to access to all information available to the committee on the same 'need to know' basis as elected councillors and briefings on specific matters prior to a meeting will be provided on request to the relevant Service Manager.
- 6.5 Co-opted members will be invited to attend relevant training sessions provided or facilitated by the Council, to support them in the undertaking of their overview and scrutiny role.

## **7. ACCOUNTABILITY**

- 7.1 Co-opted members of an overview and scrutiny committee will be expected to adhere to the provisions and requirements of the Council's Code of Conduct for members.
- 7.2 This includes a requirement for the co-opted member to declare an interest in any issue under consideration by an overview and scrutiny committee to which they have been appointed and to withdraw from any part of a meeting where they have a personal and prejudicial interest in the same way as an elected Member of the Council.
- 7.3 The Council expects all co-opted members to work within the principles of its Constitution. In addition, co-opted members are expected to:
- offer independent advice and comment on request;
  - contribute to the delivery of the adopted work programme priorities of any overview and scrutiny committee to which they have been appointed; and
  - work in a co-operative and non-adversarial manner.

- 7.4 No co-opted member may be involved in scrutinising a decision in which they have previously been directly involved.

## **8. ALLOWANCES**

- 8.1 The application of an annual allowance for co-opted members of an overview and scrutiny committee will be made at all times in accordance with the Council's current Members' Allowances Scheme. If necessary, the application of the annual allowance on a pro-rata basis to reflect the co-option of a member to a committee for a period of less than one year, will be considered.
- 8.2 The annual allowance applies only to co-opted members of an overview and scrutiny committee and does not apply to any persons (including residents, stakeholders, and members and officers of other organisations etc.) otherwise invited to address an overview and scrutiny committee or to discuss issues of local concern.

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