

Scrutiny Standing Panel Agenda



Constitution and Members Services Scrutiny Standing Panel Tuesday, 15th January, 2008

Place: Committee Room 1

Time: 7.30 pm

Democratic Services Officer: Zoe Folley, Research and Democratic Services
Tel: 01992 564532 Email: zfolley@eppingforestdc.gov.uk

Members:

Councillors R Church (Chairman), R Morgan (Vice-Chairman), J Demetriou, R D'Souza, D Jacobs, J Markham, Mrs M McEwen, T Richardson, B Rolfe, D Stallan and Mrs J H Whitehouse

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| <p>A BRIEFING FOR THE CHAIRMAN OF THE PANEL WILL BE HELD AT 19.00PM PRIOR TO THE MEETING</p> |
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1. APOLOGIES FOR ABSENCE

2. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

(Assistant to the Chief Executive) To report the appointment of any substitute members for the meeting.

3. DECLARATION OF INTERESTS

(Assistant to the Chief Executive). To declare interests in any items on the agenda.

In considering whether to declare a personal or a prejudicial interest under the Code of Conduct, Overview & Scrutiny members are asked pay particular attention to paragraph 11 of the Code in addition to the more familiar requirements.

This requires the declaration of a personal and prejudicial interest in any matter before an OS Committee which relates to a decision of or action by another Committee or Sub Committee of the Council, a Joint Committee or Joint Sub Committee in which the Council is involved and of which the Councillor is also a member.

Paragraph 11 does not refer to Cabinet decisions or attendance at an OS meeting purely for the purpose of answering questions or providing information on such a matter.

4. NOTES OF THE LAST MEETING - 11 DECEMBER 2007 (Pages 3 - 6)

Attached.

5. WORK PROGRAMME (Pages 7 - 8)

To consider the attached work plan for the Panel.

6. LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007 - EXECUTIVE ARRANGEMENTS (Pages 9 - 12)

(Assistant to the Chief Executive). To consider the attached report.

7. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE

To consider which reports are ready to be submitted to the Overview and Scrutiny Committee at its next meeting.

8. FUTURE MEETINGS

The next programmed meeting of the Panel will be held on 12 February 2008 at 7.30 in Committee Room 1 and then on:

28 April 2008

EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION AND MEMBERS SERVICES SCRUTINY
STANDING PANEL
HELD ON TUESDAY, 11 DECEMBER 2007
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.30 - 8.45 PM

Members Present: R Church (Chairman), R Morgan (Vice-Chairman), J Demetriou, R D'Souza, D Jacobs, T Richardson, D Stallan, Mrs J H Whitehouse and H Ulkun

Other members present:

Apologies for Absence: J Markham, Mrs M McEwen and B Rolfe

Officers Present I Willett (Assistant to the Chief Executive), C Overend (Policy & Research Officer) and Z Folley (Democratic Services Assistant)

1. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

Noted that Councillor Ulkun was attending the meeting as a substitute for Councillor Mrs McEwen.

2. DECLARATION OF INTERESTS

No declarations of interests were made pursuant to the Member Code of Conduct.

3. NOTES OF THE LAST MEETING - 20 NOVEMBER 2007

The Panel considered the notes of the last meeting.

Review of meeting cycle of Area Plans Sub – Committees (Note 33).

The notes were agreed subject to note 33 being amended by deleting the words 'The Panel balanced the merits of the proposals against the costs (extra meetings, officer time and resources)' from the last paragraph.

4. TERMS OF REFERENCE / WORK PROGRAMME

Review of meeting cycle of Area Plans Sub – Committee.

It was noted that a formal report on the conclusions reached at the last meeting regarding the desirability of the introduction of a three weekly Area Plans Sub – Cycle had been submitted to the 13 December 2007 OSC for endorsement prior to submission to Council.

Agreed that details of the likely cost of the change be circulated for the 13 December 2007 OSC.

Agreed that the Committee's response to the report be made available for information before the 18 December 2007 Council meeting. **Action:** Officers to e-mail Members.

It was noted that provision had been made in next year' calendar for a three weekly cycle should this be approved.

It was also suggested that turnaround times for individual areas be assessed to see whether the shortfalls in performance related only to certain wards.

5. LOCAL GOVERNMENT & PUBLIC INVOLVEMENT IN HEALTH ACT 2007 - SUMMARY

The Panel considered the summary.

(a) Overview and Scrutiny (Part 5 – Chapter 2)

It was clarified that the provisions in the above related specifically to the Local Area Agreements and should be considered in that context. It did not affect the wider powers elsewhere in the Act for allowing Scrutiny Committees to require relevant outside bodies to appear before them and submit information.

(b) Ethical Sandards (Part 10 – Chapter 1)

It was felt that Members subject to complaints should receive early notification of the investigation to make them aware of the investigation. It was questioned whether the changes provided for such action?

Noted that new guidance on this was anticipated

(c) Patient and Public Involvement in Health and Social Care (Part 14)

A Members reported on uncertainties over the role and work of the new Public and Patient Involvement Forum. There was a need to facilitate involvement in this body and to keep an eye on this situation.

6. ELECTORAL CYCLE

The Panel considered a report on the Electoral Cycle. The Panel considered:

- (i) written material obtained from other local authorities in connection with whole Council elections/elections by thirds;
- (ii) whether in principle, the option for this Council to adopt whole Council elections should be taken pursued;
- (iii) Subject to (2) above:
 - (a) whether to hold a member seminar on the issue;
 - (b) whether it should be facilitated by LGIU and, if possible, involve representatives of other Councils.

C Overend reported on information received from officers at Eastbourne BC since agenda publication. He reported that Eastbourne moved to whole council elections in 2001. He reported feedback received from officers at that Council on the practicalities of this change. He advised that:

- The Authority comprised two main parties - 28 Members – so finding candidates for elections was not a problem;
- change involved a lot of hard work;
- the Parliamentary constituency was a marginal seat with 3 Member wards for the local elections and coterminous boundaries with Parishes;
- Local elections tended to be fought on national issues;
- change generated some initial cost savings;
- still have annual Councils;
- overall it was a worthwhile move.

It was suggested that Members might wish to meet Members from other Councils to discuss experiences of moving to whole Council election to get a feel for what it involved.

The Panel discussed the merits of proposals.

Some felt that a move to whole council elections should:

- allow for a greater understanding of the electoral process amongst the public, there was confusion amongst residents during the run up to an election about whether a poll was due to be held in their ward.
- encourage voter turnout;
- provide the Council with long term stability and enhance its ability to plan long term;
- create cost savings

A whole Council election was held in 2002. Details of the turnout for that election should be provided for information.

More frequent elections should also provide further opportunities for Members to canvass their voters and get a feel for 'opinion on the street'.

It was also felt that no new arguments in favour of the change had come to light since the last review of the case in 2001. In view of this some saw no reason to go against the findings of that review which opposed the change. It was felt that changing the frequency of local elections was not a priority for the District or residents. It would also allow for the election of many new members with limited experience which could create problems.

There was also concern about whether the Political Groups would have the ability to find enough candidates for Whole Council Elections

In sum, the Panel concluded that the arguments against the whole elections outweighed the benefits. In view of this they proposed that the option should not be taken up.

Agreed a report be submitted to the 31 January 2008 OSC and Full Council recommending that the option for this Council to adopt whole Council elections be not taken up.

Agreed that an item be put in the next Council Bulletin to give Members a further opportunity to submit feedback.

7. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE

Noted that there were no reports to be made.

8. FUTURE MEETINGS

Noted that the next meeting of the Panel would be held on 15 January 2008 at **7.30** p.m in CR1.

| Constitution and Member Services Standing Panel | | | |
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| Item | Report Deadline / Priority | Progress / Comments | Programme of Future Meetings |
| (1) Review of May 2007 Elections | 21 June 2007 | Completed on 21 June 2007 | 15 January 2008 |
| (2) Review of Protocol on Outside Organisations | 11 October 2007 | Completed on 11 October 2007 | 12 February 2008 |
| (3) Cabinet operations in Emergency Situations | 11 October 2007 | Completed on 11 October 2007 | 28 April 2008 |
| (4) Review of Polling Stations | 11 October 2007 | Completed on 11 October 2007 | Provisional dates for extra meetings requested at meeting on 21 June 07 |
| (5) Local Government White Paper: Changes to OS (including Community Call for Action) Electoral Cycle Local Strategic Partnerships Executive Functions | | Report on Electoral cycle to be submitted to January OSC Reports on Executive Functions attached to this agenda. | |
| (6) OS Review Seminar - 18 September 2007 | 11 October 2007 | Completed on 11 October 2007 | |
| (7) Determination of Members' Planning Applications | 11 October 2007 | Completed on 11 October 2007 Report submitted to Full Council in December 2007 | |
| (8) Cabinet Committees | 11 October 2007 | Completed on 11 October 2007 Report submitted to Full Council in December 2007 | |
| (9) Communications and access to information both within this Council and between other Authorities. | 20 November 2007 | Completed by the Panel on 20 November 2007 | |

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| (10) Review of meeting cycle of Area Plans Sub Committees | 20 November 2007 | Completed by the Panel on 20 November 2007. Proposals to be submitted to OSC on 31 January 2008 for further consideration. | |
| (11) Member Training Review | 12 February 2008 | | |
| (12) Annual Review of Contract Standing Orders/Financial Delegation | 28 April 2008 | | |

Report to Constitution and Members' Services Standing Scrutiny Panel

Date of meeting: 15 January 2008

SCRUTINY



Portfolio: Finance, ICT and Corporate Support Services

Subject: Local Government Etc Act 2008 - Executive

Officer contact for further information: I Willett (01992 564243)

Democratic Services Assistant: Z Folley (01992 564532)

Decisions Required:

(1) To consider whether to recommend decisions in principle on the following aspects of the Act relating to Executives:

- (a) form of Executive;**
- (b) carrying out of functions; and**
- (c) removal of the Leader.**

(2) To defer consideration of the required changes to the Constitution, pending further Government regulations.

Introduction

1. The Local Government and Public Involvement in Health Act 2007 has now been passed by Parliament. The requirements for local authority executives have now been clarified.

Forms of Executive

2. The Act provides for two types of Executive:
 - (a) an elected mayor and cabinet of two or more Councillors appointed by the Mayor; and
 - (b) a Councillor elected by the Authority as Leader with two or more Councillors appointed to the Executive by the Leader.
3. The number of members on an Executive remains limited to 10.

Form of Executive – Decisions Required

- (a) Elected Mayor and Cabinet or Leader and Cabinet?**

Executive Functions – Responsibility/Delegation

4. Section 14 of the Act prescribes that the Leader or the Mayor may:
 - (a) discharge any of the Executive functions themselves;

(b) arrange for any of them to be carried out by –

- the Executive (i.e. the Cabinet) *
- another member of the Executive **
- a committee of the Executive (Cabinet Committee) **
- an officer of the Authority

* those functions to be carried out by the Executive may also be delegated to a Committee of the Executive or an officer.

** these functions may be delegated to an officer.

5. The previous restrictions on Cabinet decision-making remain in place.

Responsibility for/Delegation of Executive Functions - Decisions Required:

(a) once a new executive has been appointed delegation of executive functions would need to be determined by the Leader or the Mayor and drawn up in written form; and

(b) further reviews of delegation of executive functions to the Cabinet, Cabinet Committees, Portfolio Holders and officers would follow.

Changes to the Constitution to Reflect Any Change in Executive.

6. The Act specifies requirements for changing to a different form of Executive. For this Council, this would mean opting for an elected Mayor executive. These requirements include:

- (a) drawing up proposals for change;
- (b) a timetable for implementing the change, including any transitional arrangements;
- (c) a referendum if appropriate;
- (d) consultations with electors and other interested persons;
- (e) statement demonstrating how the change would assist continuous improvement in provision of Council services with regard to economy, efficiency and effectiveness;
- (f) public notice of proposals/availability of documents; and
- (g) resolution by the Council.

7. The relevant resolution must be passed by 31 December 2010 (implementation in May 2011) or 4 years later.

Decision Required – Changing the Executive

The Council would need to pass a resolution to change the Executive, having complied with the various requirements of the Act, including the statement under 7(e) above.

This only applies if the Council wishes to adopt the Elected Mayor model.

Variation of Executive Arrangements

7. The Act permits Councils to vary their executive arrangements provided that these still provide the same form of executive. The nature of the changes seems to be a matter for the Council but the Act requires that:
 - (a) proposals are drawn up including a timetable;
 - (b) any transitional arrangements are included; and
 - (c) a Council resolution is adopted.
8. The various requirements for public consultation, public notice, an assessment of how the proposal contributes to continuous improvement appear not to be necessary as Epping Forest District Council would be varying its existing Leader and Cabinet executive.
9. The Act requires however, that the timetable set out in the timetable (see 7(a) above) must be followed. There is no statutory timescale for passing this resolution.

Decisions Required – Variation in Executive Arrangements

- (a) proposal to vary the existing executive to be drawn up;**
- (b) timetable for introducing the change to be drawn up;**
- (c) transitional arrangements to be agreed; and**
- (d) to determine the changes which are to be made, which must be in addition to the changes made under the Act.**

The Leader

10. Section 44 of the Act specifies the requirements for electing a Leader. This will be carried out at the Annual Council meeting following whole Council elections (every four years) or at the relevant Annual Council if a system of election by thirds is in operation.
11. The term of office of the Leader under whole Council elections begins when appointed as Leader and ends on the day of the post-election Annual Council meeting. Under election by thirds, the Leader's appointment begins when elected by the Council and ends on the day of the Annual Council meeting after his or her retirement/re-election.
12. If the Council changes to whole Council elections, the Leader's term of office ends on the day of the first annual meeting after whole Council election take place.
13. A Council constitution may make provision for the Leader of Council to be removed from office by means of a resolution passed by the Authority. This seems to be a discretionary provision but this Council already has already included this in its constitution. Section 44 and the various provisions outlined above are subject to further Government regulations on:
 - (a) dates/years in which Leaders and Cabinets are to be elected;
 - (b) intervals between elections of Leaders and Cabinets;

- (c) term of office for Leaders and Cabinets; and
- (d) filling of vacancies in the office of Leader.

15. The latest information is that these regulations will be in force in May 2009.

Decisions Required:

Most aspects of this section of the Act may need to await the Government regulations and any decision by the Council on changing to a system of whole Council elections.