

## Scrutiny Standing Panel Agenda



### **Constitution and Members Services Scrutiny Standing Panel Monday, 6th April, 2009**

**Place:** Committee Room 1

**Time:** 7.30 pm

**Democratic Services Officer:** Mark Jenkins - The Office of the Chief Executive  
Tel: 01992 564607 Email:mjenkins@eppingforestdc.gov.uk

#### **Members:**

Councillors Mrs M McEwen (Chairman), R Morgan (Vice-Chairman), Mrs P Brooks, Ms J Hedges, J Markham, J Philip, B Rolfe, Mrs M Sartin, D Stallan and Mrs J H Whitehouse

A BRIEFING FOR THE CHAIRMAN OF THE PANEL WILL BE HELD AT  
7.00 PM PRIOR TO THE MEETING

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

#### **2. NOTES OF THE LAST MEETING (Pages 5 - 8)**

The notes of the last meeting held on 22 February 2009 are attached.

#### **3. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)**

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

#### **4. 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.

## **5. TERMS OF REFERENCE / WORK PROGRAMME (Pages 9 - 12)**

(Chairman/Lead Officer) The Overview and Scrutiny Committee has agreed the Terms of Reference of this Panel and associated Work Programme. This is attached. The Panel are asked at each meeting to review both documents.

The OSC is about to formulate next years OS work plan incorporating a programme for this Panel. In view of this, the Panel may wish to bring forward suggestions/ideas on topics for inclusion in its work programme for next year.

## **6. OVERVIEW AND SCRUTINY REVIEW (Pages 13 - 56)**

1. (Assistant to the Chief Executive) Overview and Scrutiny has been subject to regular review since its inception. This year the review contains a number of issues which can be broken down into a number of distinct elements:

(i) Current legislative provisions that require us to review our constitutional arrangements;

(ii) A forward look to forthcoming legislation and its effects on the operation of Overview and Scrutiny;

(iii) A discussion on points raised by members and officers this year; and

(iv) Issues arising from (iii) that might require changes to the constitution and/or operational arrangements for Overview and Scrutiny.

2. The review this year has therefore been split into a number of reports which are attached for consideration:

### **Current Legislative Changes**

(1) Councillor Call for Action

(2) Police and Justice Act 2006 – Community Safety Committees

### **Forthcoming Legislation**

(3) Briefing on Local Democracy, Economic Development and Construction Bill

### **Issues Raised by Members and Officers**

(4) Operational Review of Overview and Scrutiny 2009

## **7. CIVIC EVENTS**

Councillor D Stallan wishes to suggest that a new protocol relating to civic events

should be prepared.

**8. OFFICER DELEGATION (Pages 57 - 66)**

To consider the attached report.

**9. FUTURE MEETINGS**

The next programmed meeting of the Panel will be held on 29 June 2009 at 7.30 in Committee Room 1 and then on:

14 September 2009

2 November 2009

11 January 2010

22 March 2010

**10. 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.

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**EPPING FOREST DISTRICT COUNCIL  
NOTES OF A MEETING OF CONSTITUTION AND MEMBERS SERVICES SCRUTINY  
STANDING PANEL  
HELD ON MONDAY, 23 FEBRUARY 2009  
IN COMMITTEE ROOM 1  
AT 7.30 - 9.20 PM**

**Members Present:** Mrs M McEwen (Chairman), R Morgan (Vice-Chairman), Mrs P Brooks, Ms J Hedges, J Markham, J Philip, B Rolfe, Mrs M Sartin, D Stallan and Mrs J H Whitehouse

**Other members present:** Mrs D Collins

**Apologies for Absence:**

**Officers Present** I Willett (Assistant to the Chief Executive), T Carne (Public Relations and Marketing Officer) and M Jenkins (Democratic Services Assistant)

**46. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)**

There were no substitutions made.

**47. DECLARATION OF INTERESTS**

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

**48. TERMS OF REFERENCE**

The terms of reference were noted.

**49. CONSULTATION ON PUBLICITY CODE**

This particular meeting of the Panel had been arranged at the request of the Overview and Scrutiny Committee meeting of 29 January 2009, to examine in closer detail the Government consultation document on the Code of Recommended Practice on Local Authority Publicity which had been put before that meeting. The consultation document, with 16 questions, was discussed by the Committee. The questions and the Panel's responses to them are listed below:

**Question 1** Is there other guidance, (additional to the Publicity Code), that councils consider creates a barrier to the provision of publicity or support, or that needs clarifying?

**Panel Response:** The Publicity Code needs to take into account the provision of publicity material for foreign languages and appropriate use of translation services.

**Question 2** Is there a requirement for different codes to apply to different types of authority?

**Panel Response:** The Publicity Code should apply equally to all elected bodies.

**Question 3 Should the Publicity Code specifically address the presentation of publicity on an authority's website?**

**Panel Response:** The Publicity Code should not be technology specific, as technology is changing regularly. Local authority constituted meetings, such as planning meetings and Full Council, and the webcasting of these meetings, should not be covered by the code as they are a Council function, directed by law.

**Question 4 Does anything need to be added to or removed from the list of matters an authority should consider in determining whether or not to issue publicity on a certain subject?**

**Panel Response:** The Publicity Code should make reference to community leadership, community wellbeing and the Chairman of Council's new role of promoting local democracy. Publicity will no longer be strictly limited to the Council's own functions.

**Question 5 Should the Publicity Code specify the different criteria local authorities should use to determine whether or not publicity can be judged to be cost effective?**

**Panel Response:** There was, currently, a plethora of assessments on cost effectiveness within the Council. All costs were monitored and assessed through Use of Resources assessment and the Comprehensive Area Assessment (CAA) process together with value for money requirements.

**Question 6 Is there any aspect of the cost section that is not required or anything which should be added?**

**Panel Response:** Same as 5.

**Question 7 Should the Publicity Code contain advice about ethical standards, or should this be left to local authorities to judge for themselves?**

**Panel Response:** No the Publicity Code should rely on Members' Code of Conduct standards.

**Question 8 Is there any aspect of the content section that is not required or anything which should be added?**

**Panel Response:** Same as 7.

**Question 9 Should the Publicity Code be modified to specifically address the issue of privacy and the dissemination of unsolicited material?**

**Panel Response:** No change thought necessary.

**Question 10** Is there any aspect of the dissemination section that is not required or anything which should be added?

**Panel Response:** Same as 9.

**Question 11** Is there any aspect of the advertising section that is not required or anything which should be added?

**Panel Response:** Many areas do not have a single newspaper (or other media outlet) which operates solely within a single local authority area. Paragraph 31 should be reviewed to recognise that inevitably advertising would extend beyond District boundaries because of the way in which the media operate.

**Question 12** Should adverts for local authority political assistants appear in political publications and websites?

**Panel Response:** The current prohibition in paragraph 37 of the Publicity Code regarding publicity advertisements relating to recruitment of political assistants should be amended to reflect that these positions need to be advertised in political journals.

**Question 13** Is there any aspect of the recruitment advertising section that is not required or anything which should be added?

**Panel Response:** Same as 12.

**Question 14** Given the emphasis given to supporting and raising awareness of the role of the councillor in the White Paper, is there any aspect of the section on councillors that is not required, or anything which should be added?

**Panel Response:** The Publicity Code should provide guidance on the creation of Councillor websites which are linked to the Council's website. Clarification was needed on where the publisher's status rested in accordance with the Code of Conduct. Relaxation of any rules in this area needed to be balanced with cost effectiveness and personal responsibility for those Councillors with their own websites.

**Question 15** Is there any aspect of the timing of publicity section that is not required, or anything which should be added?

**Panel Response:** Clarification was needed in paragraph 41, Annex C, Elections, referendums and petitions. "Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members." Also, the sentence "other politicians involved directly in the election," needs to be clarified.

**Question 16** Is there any aspect of the assistance to others for publicity

**section that is not required, or anything which should be added?**

**Panel Response:** No change recommended.

**50. FUTURE MEETINGS**

The next meeting of the Panel would be held on 6 April 2009 at 7.30p.m.



# Agenda Item 5

## TERMS OF REFERENCE - STANDING PANEL

**Title:** Constitution and Member Services

**Status:** Standing Panel

**Terms of Reference:**

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

**Chairman:** Cllr Mrs M McEwen

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<b>Constitution and Member Services Standing Panel</b>			
<b>Item</b>	<b>Report Deadline / Priority</b>	<b>Progress / Comments</b>	<b>Programme of Future Meetings</b>
(1) Review of May 2008 Elections	30 June 2008	Completed – Review went to the OSC Committee 28.8.08	As indicated.
(2) Response to Government Consultation Document on the date for Local Elections in 2009.	30 June 2008	Completed – Report went to the OSC Committee 28.8.08	
(3) Review of Contract Standing Orders – Engagement of Consultants	3 November 2008	Completed – Report went to the OSC Committee 11.12.08	
(4) Review of Civic Ceremonial Functions Scoping Report	8 September 2008	<b>Completed</b>	
(5) Government Consultation Document on Weekend Voting	8 September 2008	Completed. Report went to the OSC on 6 November 2008	
(6) Review of Constitution – Local Government etc Act 2007 The Cabinet Constitution	3 November 2008	Completed	

<b>Constitution and Member Services Standing Panel</b>			
<b>Item</b>	<b>Report Deadline / Priority</b>	<b>Progress / Comments</b>	<b>Programme of Future Meetings</b>
(7) Overview & Scrutiny Review including Government White paper on Empowerment. New item added: statutory requirement for establishment of a Crime & Disorder Committee.	6 April 2009	On agenda for this meeting – Report includes reference to community calls for action proposals.	
(8) Review of Civic Ceremonial Functions – Full Report	3 November 2008	Completed	
(9) Member Training Review	12 January 2009	Completed	
(10) Annual Review of Financial Regulations	12 January 2009	Completed	
(11) Annual Review of Contract Standing Orders	12 January 2009	Completed	
(12) Annual Review of Officer Delegation	6 April 2009	On agenda for this meeting.	
(13) Mayors – Revised Arrangements for Petitions	To be determined.	Consultation Document Awaited	Next year's Work Programme.
(14) Time Off Entitlement to Encourage Public Service	19 December 2008	Completed	
(15) Youth Commission Consultation – Lowering the Voting Age to 16	12 January 2009	Completed	

## **Report to Constitution and Members' Services Standing Scrutiny Panel**

# SCRUTINY



**Date of meeting: 6 April 2009**

**Portfolio:** Leader

**Report of:** Policy and Research Officer

**Subject:** Councillor Call for Action

**Officer contact for further information:** C Overend (01992 564243)

**Democratic Services Assistant:** M Jenkins (01992 564532)

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### **Recommendations:**

- (1) That the Panel notes the introduction of the Councillor Call for Action (CCfA) and address the constitutional issues arising consequent upon its introduction; and**
- (2) That the Overview and Scrutiny Committee include a review of the effect of the CCfA in the work programme with particular reference to the Overview and Scrutiny Procedure Rules, the petition procedure, the compliments and complaints procedure and the delegation of officers/member bodies to deal with the new procedures under the Act.**

### **Report:**

#### **Introduction/Background:**

1. The Local Government and Public Involvement in Health Act 2007 empowers all Councillors to refer issues of concern related to Council functions for consideration by the relevant Overview and Scrutiny Committees of their local authorities. In addition, the Police and Justice Act 2006 (which proposed a 'Community Call for Action' on crime and disorder matters. The latter is referred to as a separate report) has been amended by the 2007 Act to bring these provisions into line with the 'Councillor Call for Action'. (The CCfA is derived from Section 119 of the 2007 Act and inserts a new Section 21A into the Local Government Act 2000). The original intention was to introduce these powers in 2008 but the implementation date is now 1 April 2009. However, the CCfA is a power rather than a duty and it is recognised that the arrangements will vary from one local authority to another and will be developed over a period of time.
2. The Council has been awaiting the publication of best practice guidance on the CCfA prior to assessing the impact of the proposals on existing constitutional arrangements and how it might best be applied locally. This guidance was published on 17 February 2009 and this report sets out further information in the light of that guidance and the proposed arrangements for local use having regard to that guidance.
3. The national guidance also includes information on the optional power to delegate Council functions under Section 236 of the 2007 Act to individual Councillors to make decisions at ward level. Regulations will be issued in respect of publicity for recording such decisions.

4. This report needs to be considered in the context of other initiatives and existing mechanisms such as:
  - The Council's Complaints Procedure;
  - The Annual Work Programme for Overview and Scrutiny;
  - Petitions - The Local Democracy, Economic Development and Construction Bill (known as the Local Democracy Bill) currently going through Parliament contains a new duty for Councils to respond to petitions giving citizens greater power to hold local authorities to account and influence local services.
5. The CCfA provision entitles all Councillors to refer a "local government matter" to an Overview and Scrutiny Committee once they have exhausted all other means of resolving the issue. This is defined as a matter "which relates to the discharge of any function of the Authority, affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area, and is not an excluded matter".
6. The Overview and Scrutiny (Reference by Councillors) (Excluded Matters (England) Order 2008 "the Order" excludes certain issues from the definition of "local government matters" for the purposes of Section 21A, which relate to individuals, or concerning planning and licensing matters and issues which are vexatious, discriminatory or not reasonable to be included in the agenda or discussed at a Scrutiny Committee (e.g. if the issues would be detrimental to community cohesion). It also excludes issues relating to individuals or entities where there is already a right to a review or appeal (other than a complaint to the Ombudsman). Section 21A(ii) also provides that an excluded matter is a local crime and disorder matter (within the meaning of Section 19 of the Police and Criminal Justice Act 2006).
7. The work of resolving community concerns is an important part of a Councillor's role. The CCfA is regarded by Government as a useful additional tool for Councillors in attempting to perform this role effectively. It recognises that certain matters are best dealt with through existing mechanisms (e.g. planning and licensing applications) or other statutory appeals processes.

#### **What is different about CCfA?**

8. CCfA goes beyond the existing power scrutiny members have to raise issues. This new power gives all Councillors the ability to call for debate and discussion at a committee on a topic of neighbourhood concern. The powers are limited to issues affecting single Council wards (Nonetheless, many such issues, or at least aspects of them, are likely to be repeated in other wards at other times. Thus any decision as to how to deal with a referred matter, might well have a bearing on how similar issues arising in the future are dealt with).
9. Under the 2007 Act, Scrutiny Committees have the power to request information from certain partner organisation and to invite representatives from partner organisations to attend where relevant. CCfA is therefore an opportunity to devise solutions for local problems using the influence that scrutiny can provide in bringing together a range of partners and in producing innovative thinking around an issue.
10. CCfA should not, however, be regarded in isolation, as part of the scrutiny function alone. For it to be effective, requires use of a range of other facilities, including support for Councillors' ward work, the complaints process, call-in and petitions.
11. If a CCfA is accepted, a discussion would take place at the Committee meeting on how to achieve the outcomes that the Member championing the CCfA is seeking.

The Committee would, in appropriate cases, explore potential solutions, and may make recommendations that certain actions be taken.

12. These powers are for any Member of the Council to pursue. However, there are exceptions where CCfA is not appropriate. Statutory Regulations state that any matter which "is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee or at a meeting of a Sub-Committee of that Committee is to be excluded".
13. The guidance states as follows in regard to these terms:

"Vexatious" and "persistent" - it is probably best to refer to the guidance to the Freedom of Information Act which states that:

Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and the key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.
14. Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid - it may relate to a systematic problem that has not been effectively resolved. A request which some Members may regard as vexatious, for political reasons, may actually be entirely reasonable.
15. Councils should not see politically motivated CCfAs, and CCfAs on subjects of high-profile political controversy, as a threat. They should be used as an opportunity for Members to defuse political rows and, jointly, to develop solutions that are satisfactory to all. Nonetheless, Members might like to consider whether there should be a "purdah" period prior to elections when the CCfA provision would not be available.
16. "Discriminatory" - a modern interpretation of the word "discrimination" is provided at Section 45 of the Equality Act 2006, in relation to religion and belief, as follows:

A person ("A") discriminates against another ("B") for the purposes of this part if, on grounds of the religion or belief of B, or of any other person except A (whether or not it is also A's religion or belief) A treats B less favourably than he treats or would treat others or would treat others (in cases where there is no material difference in the relevant circumstances).
17. "Not reasonable" - it is suggested that, in the interests of transparency, authorities do not interpret "not reasonable" as being the same as the legal word "unreasonable". It is best to consider it as a qualifier to the word "vexatious" as a vexatious request is likely not to be reasonable, and a request that is not reasonable is likely to be vexatious.
18. Other exclusions - Regulations also state that issues should be excluded from CCfA when they relate to a complaints process. Planning appeals, licensing appeals and all other areas where a person has an alternative avenue to resolve an issue are expressly excluded. However, Section 4.1 sets out ways in which information from complaints could be used to support CCfA.
19. Specific criteria for "automatic rejection" of CCfAs under certain circumstances will not be the best way forward, because each CCfA will need to be looked at on its merits.
20. Members will be provided with routes to seek advice on what can and cannot be pursued as a CCfA. This will include signposting to alternative resolutions. This is important as a CCfA must be used only as a **last resort**, when all other attempts at resolution have failed. It is not designed to provide an immediate solution, but high-

profile community discussion of an issue involving all stakeholders. It offers the chance to bring a pressing issue to a wider audience and to discuss such issues in a neutral forum.

21. There is a wide range of alternative avenues Councillors can pursue to influence and resolve problems, formal and informal, such as: discussions with officers, questions at Committee, formal letters on behalf of constituents, petitions, motions to Council, and letters to local MPs.
22. Discussion of CCfA issues at Committee will not necessarily resolve the issue immediately. However, the CCfA process is intended to act as a spur for Members and officers to work together to jointly develop policies to overcome the problem.

### **Examples of a CCfA**

23. Under Section 21A of the 2007 Act, a CCfA needs to relate to a "local government matter". This could be interpreted narrowly, to mean only those issues under the direct control of the authority. However, the guidance states that, to give full effect to CCfA, the interpretation of "local government matter" needs to be broader.
24. This broader interpretation includes issues relating to the Council's partners, in line with the area focus of Comprehensive Area Assessment (CAA), and the fact that an authority's duties increasingly impact on other organisations, and involve partners within and outside the Local Strategic Partnership (LSP).
25. Examples of when councillors might use CCfA include:
  - Long running issues of anti-social behaviour linked to substance misuse in a local park area
  - Continuing trends in poor performance around, for example, refuse collection or recycling (the guidance confirms that this would only be appropriate if it related to a specific locality)

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### **Community Safety CCfA**

26. A different Act of Parliament, the Police and Justice Act 2006, sets out a CCfA for crime and disorder and community safety issues. The provisions for the 'crime and disorder CCfA' are essentially identical to the general CCfA.
27. Although the Police and Justice Act requires these issues to be considered by the 'Crime and Disorder Committee', in practice this does not require the setting up of a separate committee or separate arrangements.

### **Existing Arrangements**

28. There are a number of methods and/or mechanisms members can use to raise matters to influence change. These may be formal or informal, within or outside the Council's constitutional arrangements and include the following:
  - Overview and Scrutiny Committee/call-in
  - Questions at committee/council
  - Informal discussions with officers or other members
  - Formal letters written on behalf of constituents
  - Public meetings
  - Petitions and deputations
  - Motions on the agenda at full Council
  - Communication with local M.P.s
  - Communication with Councillors at other local authorities



- Web or e-mail based campaigns
29. In terms of the existing constitutional arrangements there is a mechanism through the Members' Bulletin whereby, once a year, councillors can submit requests through completion of the required form, for items to be referred to Overview and Scrutiny Committee. There is also a referral method through each Overview and Scrutiny Committee agenda providing Members with an opportunity to put forward suggestions for inclusion in the "reserve" programme for discussion at the appropriate time. Overview and Scrutiny Committee can also exercise the right to call-in, for reconsideration, decisions made but not yet implemented.
  30. The District Council has an official procedure for dealing with petitions set out in the Constitution. A minimum of 20 signatures is required. A petition is dealt with by Democratic Services staff who may refer it to the appropriate Portfolio Holder, Ward Councillors, appropriate Overview and Scrutiny Chairmen and any other relevant members as agreed by the Portfolio Holder. Following discussions involving the Portfolio Holder and relevant Director, a decision will then be taken on any action required including, where deemed appropriate, referral to the Cabinet. The Government is bringing in provisions relating to petitions as part of the Local Government Bill. It is not yet known what impact these provisions will have on the District Council's petition arrangements.
  31. There is also provision for Councillors to ask the Leader, or the Chairman of Overview and Scrutiny or a Portfolio Holder any question without notice on an item of the Executive or a Committee under consideration or, indeed, on any non-operational matter in relation to which the Council has powers or duties. Similarly, Members can put forward motions about matters for which the Council has a responsibility or which affect the Epping Forest District.

#### **CCfA within Revised Arrangements**

32. CCfA will be a means of "last resort" in a broad sense, with the process being used after all other avenues have been exhausted. As such, the process should make it easier for issues that would benefit from scrutiny consideration to rise to the surface, and for those issues which are best dealt with through other means to be signposted accordingly.
33. Nonetheless, CCfA has an important role to play and procedures for it need to be incorporated into the Council's Constitution. What CCfA can provide which the other arrangements referred to in paragraphs 29-32 above cannot guarantee, is the opportunity for a Member to raise a local matter affecting their ward to the Overview and Scrutiny Committee and guarantee it being discussed and debated in such a forum within a short time of the issue coming to their attention. Whilst the Committee is not compelled to take any further action, all the powers it has – to mount inquiries, to require information and to make reports and recommendations – are to be available to it.
34. Moreover the CCfA revolves around the concept of "resolution". What CCfA provides is a recognition that an issue is significant enough for time, attention and resources to be spent trying to resolve it, as it provides the following:
  - A public forum for discussion of the issues
  - An opportunity to discuss the issues in a neutral environment
  - An opportunity to discuss a problem with the explicit and sole aim of solving it
  - A high profile process owned by a Ward Councillor
35. CCfA can be and should be used in conjunction with other procedures/arrangements where appropriate. For example, thought should be given as to how it might be linked with the arrangements for dealing with petitions. It will also be valuable for CCfA issues to feed into the broad scrutiny work programme.

36. An important consideration is the need to identify an individual responsible for determining which issues should be dealt with through CCfA. For example, should all issues be referred to the Chairman of Overview and Scrutiny to decide whether CCfA and/or other scrutiny procedures are appropriate? And should there be a time limit for resolving CCfA issues?

#### **Reasons for the Proposed Decision**

37. Local authorities must provide arrangements for a CCfA to comply with the requirements arising from the Local Government and Public Involvement in Health Act 2007, and the Police and Justice Act 2006. It is important that Members understand and contribute to this development work which imposes new responsibilities on them and the Council.

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

38. The alternative option would be to not provide arrangements for the CCfA. This be a failure to comply with the legislation. The guidance set out in this report is devised from best practice guidance which has been tailored specifically for local use.

#### **Resource Implications:**

There will be no specific additional costs arising. CCfA requirements would need to be provided for within existing Overview and Scrutiny arrangements.

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

The CCfA provision is derived from Section 119 of the Local Government and Public Involvement in Health Act 2007. The arrangements will be reflected in changes to the Council's Constitution.

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

None.

#### **Consultation Undertaken:**

Internal discussions between officers.

#### **Background Papers:**

Local petitions and Calls for Action Consultation published by the Government 27 December 2007;

Summary of responses and subsequent Government Response to local petitions and Calls for Action Consultation;

Councillor Call for Action: Best Practice Guidance;

Epping Forest District Council Constitution.

#### **Impact Assessments:**

Assessment of effects on Council Constitution plus internal arrangements and resources required for dealing with CCfA.

# **Report to: Constitutional and Member Services Panel**



# SCRUTINY

 Epping Forest District Council

**Subject:** Briefing Paper - Local Democracy, Economic Development and Construction Bill

**Officer contact for further information:** Simon Hill 01992 56 4249

**Committee Secretary:** Mark Jenkins 01992 56 4607

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## **Recommendations:**

- (1) That the briefing report be noted; and**
- (2) That the Panel request Overview and Scrutiny Committee to make appropriate additions to the work programme of this Panel for 2009/10 to cover:**
  - (i) A review of the Council's petitions procedure and electronic systems;**
  - (ii) Further reports on the duty to promote democracy envisaged;**
  - (iii) Any consequential changes that might be required to the Operational rules.**

## **Report:**

### **Introduction**

1. (Senior Democratic Services Officer) The White Paper 'Communities in control: real people, real power', published in July 2008, set out the government's proposals for empowering local communities. These proposals have been developed into two pieces of legislation; (1) the Local Democracy, Economic Development and Construction Bill; and (2) the forthcoming Community Empowerment Bill. This briefing note sets out the main provisions in the Local Democracy, Economic Development and Construction Bill.

2. It should be noted that a Community Empowerment Bill has yet to be published, but it will encompass other White Paper proposals, including the removal of barriers to directly elected mayors; empowering parish councils; enabling 'remote' voting at council meetings and the introduction of voting incentives.

### **Local Democracy, Economic Development and Construction Bill**

3. Currently in the third reading stage in the House of Lords is a new Bill which will enact a number of new provisions for local authorities. The Local Democracy, Economic Development and Construction Bill seeks to promote local democracy and economic development, devolving greater power to local government and communities and ensures fairness in construction contracts.

4. The main elements of the Bill are:

- Strengthening local democracy, by passing more power and responsibility to local authorities, communities and citizens, including taking proposals forward from the White Paper: Communities in control: real people, real power.

- Implementing recommendations from the Review of Sub-National Economic Development and Regeneration to strengthen the role of local authorities in economic development and streamline regional decision making.
- Helping to implement one of the recommendations in the Cave Review of social housing regulation (“Every Tenant Matters”) that a National Tenant Voice should be established.
- Removing the electoral commission’s role in electoral boundary matters through the creation of an independent Boundary Committee for England.
- Implementing recommendations from Lord Sharman’s report to give the Audit Commission in England, and the Auditor General for Wales, in Wales, power to appoint an auditor to certain local government entities, and to issue a public interest report about those entities if appropriate.
- Improving cash flow and rights to adjudication in construction contracts.

5. In terms of the implications for Scrutiny, there will be requirement to review its own procedures for petitions to accord with new requirements to include referral to Overview and Scrutiny Committee to either hold executive/officers to account and additionally in a review mechanism designed to look at the adequacy of the steps taken by the Council in response to the petition.

### **Petitions**

6. There will be a requirement for the Council to have an e-Petitions facility on its website. This new scheme will require the rewriting of the Council petitions procedure and it is not yet clear what powers, if any, will come with the requirement to review processes. It is recommended that the work programme of this Panel include a reference to bring forward a further report on petitioning once the legislation is nearing Royal Assent and guidance on a model scheme is issued.

7. The Council will have some discretion as to setting thresholds for petitions and full Council assent will be required for the final scheme.

8. Officers are currently looking at e-Petitioning systems that are supported by existing back office systems and will report further on this aspect.

### **Scrutiny Officers**

9. The Bill also brings forward the requirement for County and Unitary Authorities to have a designated ‘Scrutiny Officer’. At present this is not extended to District authorities.

### **Duty to Promote Democracy**

10. The Bill introduces a statutory duty to promote democracy above town/parish level. Its aim is to promote ‘understanding’ of the following:

- its functions;
- its democratic arrangements (meaning ‘arrangements for members of the public to participate in, or influence, the making of decisions’); and
- how the public can take part, and what’s involved, including how to become a Councillor; what councillors do; and what support is available for Councillors.

11. The duty extends beyond the council itself, and covers what are referred to as

'connected authorities' which, for practical purposes will include organisations normally found in the local strategic partnership.

12. The Council has previously given this aspect some consideration and has given the Chairman of the Council a lead responsibility for this duty. However, the scope of this duty is still being debated by the Government and until the likely final wording and guidance is forthcoming, it is difficult to say what resources are affected. An impact assessment published by the CLG put the country wide costs at some £22 million.

### **Joint Scrutiny Committees.**

13. Clause 28 of the Bill expands the remit of the joint committees in two-tier areas set up by the 2007 Local Government and Public Involvement in Health Act, from a sole focus on local improvement targets to anything that "affects the area of the group of partner authorities or the inhabitants of that area". This seems at present limited to partner authorities which must include the County Council rather than being more flexible to allow scrutiny across any combination of local authorities.

### **Local Authority Economic Assessments and Regional Strategy**

14. The Bill currently requires each 'principal local authority' (in our case this will be Essex County Council) to prepare an assessment of the economic conditions in its area, and may thereafter revise that assessment if it considers it appropriate. District Council's are a consulate to this process. The Bill indicates that the Secretary of State will decide as to what these assessments should contain, how it is to be prepared, when and when it is to be revised.

15. Regional Strategies, beyond development and land use to include policies for sustainable economic growth and climate change issues will be the joint responsibility of the Regional Development Board and new "Leaders' Boards". Districts are one of the 'participating authorities to this new body and will be required to produce and publish a plan setting out how the strategy will be implemented.

### **Other matters**

16. The Bill also contains provisions for:

- (i) Economic Prosperity Boards and combined authorities;
- (ii) Multi Area Agreements;
- (iii) A power to appoint an auditor to certain local government entities, and to issue a public interest report about those entities if appropriate; and
- (iv) Improvements to the fast track system for resolving construction contract disputes.

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# **Report to Constitution and Members' Services Standing Scrutiny Panel**

**Date of meeting: 6 April 2009**



**Portfolio:** Leader

**Subject:** Police and Justice Act 2006 – Community Safety Committees

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

**Democratic Services Assistant:** M Jenkins (01992 564532)

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## **Recommendations:**

**(1) To recommend one of the following options to the Overview and Scrutiny Committee at its meeting on 16 April 2009 in regard to the establishment of a Community Safety Committee under the 2006 Act:**

**(a) Option 1 – Establish a new Committee under the Overview and Scrutiny banner;**

**(b) Option 2 – Amend the Terms of Reference of the Overview and Scrutiny Committee to cover crime and disorder responsibilities and designate that Committee as the Council's Community Safety Committee;**

**(c) Option 3 – Establish a new Community Safety SSP, amending the Terms of Reference of the Safer, Cleaner, Greener SSP by excluding crime and disorder matters and designating the new SSP as the Community Safety Committee; and**

**(d) Option 4 – Designate the Safer, Cleaner, Greener SSP as the Council's Community Safety Committee;**

**(2) That the Overview and Scrutiny Committee be further recommended to consider at its June 2009 meeting:**

**(a) the manner in which the statutory requirement for at least two meetings of the designated Community Safety Committee will be held;**

**(b) co-option arrangements; and**

**(c) the terms of reference of the Community Safety Committee, its membership and other constitutional changes for adoption by the Council.**

## **Report:**

### **Introduction**

1. Notification has recently been received from the Home Office that it is intended to bring into force Sections 19-21 of the Police and Justice Act 2006 with effect from 30 April 2009.

## **Statutory Requirements**

2. Sections 19-21 are designed to ensure that every local authority will have a committee (to be called the "Crime and Disorder Committee") which will have the following powers:

- (a) To review or scrutinise the decisions made, or other action taken, in connection with the discharge by responsible authorities of their crime and disorder functions; and
- (b) To make reports or recommendations to a local authority or any other partnership body on the carrying out of those functions.

3. In addition, the Councillor call for action includes crime and disorder matters as well as other local government issues. These are dealt with in a separate report to this meeting.

4. These changes and the implementation of the Act will be introduced in new Government regulations which are as yet in draft form only. Key features of the draft regulations are summarised below:

### **Co-option**

- (a) Committees will be able to co-opt additional members if this is considered appropriate for the Committee's functions;
- (b) co-optees will have the same voting rights as any other members;
- (c) co-optees' membership can be limited to a specific matter or group of issues;
- (d) Committees will not be able to co-opt any person who was involved in the decision or action under review;
- (e) the number of co-opted members must not exceed the number of permanent committee members;
- (f) co-optees are restricted to those who are employees or officers of the Council, any co-operating person or body;
- (g) members of a Local Authority Executive (Cabinet) may not be members of a Crime and Disorder Committee;
- (h) Committees will be required to consult the relevant body on the most suitable co-optee;
- (i) the membership of a co-opted person may be withdrawn at any time by the Committee.

### **Frequency of Meetings**

- (j) Crime and Disorder Committees will be required to meet no less than twice in every 12 month period.



## **Requests for Information**

- (k) Committees have rights to receive information from local authorities, co-operating persons or bodies when requested;
- (l) information must be provided no later than the date indicated in the Committee's request or within an agreed timescale which is reasonable in the circumstances;
- (m) information must exclude the identification of any living individual unless this is necessary or appropriate for the exercise of the Committee's powers.
- (n) information provided must exclude anything which would prejudice current or future operations of any responsible authority;

## **Attendance at Committee Meetings**

- (o) Committees will be able to require the attendance of an officer or employee of a responsible authority or co-operating body in order to answer questions or provide information, subject to at least two weeks' notice of the date of the meeting being given;
- (p) persons invited are required to attend unless there is a reasonable excuse for absence;

## **Reports and Recommendations of Committees**

- (q) where a Crime and Disorder Committee makes a report or recommendations to a responsible authority etc, responses by the recipients must be in writing and submitted to the Committee within a period of one month or as soon as possible thereafter;
- (r) a Crime and Disorder Committee is required to review such responses and monitor the action (if any) taken by the responsible person or authority.

## **Implications for Epping Forest District Council**

5. The Panel will appreciate that the timescale being provided by Government for the introduction of Crime and Disorder Committees is extremely short. It is suggested that the Overview and Scrutiny Committee at its June 2009 meeting (when Panels are appointed and the work programme agreed) should consider how Overview and Scrutiny is to meet the requirements of the 2006 Act in regard to the establishment of a Community Safety Committee.

6. Currently, there is a Standing Scrutiny Panel on the "Safer, Cleaner, Greener Initiative" which includes within its Terms of Reference monitoring of crime and disorder issues. Recommendation (1) to this report sets out a number of possible options by which the Council can discharge its responsibility to set up a Community Safety Committee. The Panel is asked to consider these options and make recommendations to the Overview and Scrutiny Committee so that a formal decision can be made at its April meeting.

7. The Act requires the Community Safety Committee to meet on a minimum of two occasions in every 12 months so it is important that the Council considers how this particular requirement is to be met. If a new body is established, two dates need to be included in the calendar of meetings. If an existing body is to be designated as the Crime and Disorder Committee, it may be necessary to consider having two designated meetings of the body concerned so that the Council is seen to meet the statutory obligations.

8. Memberships of Panels are agreed in June 2009. Whichever option is chosen, consideration will also need to be given to co-option proposals, any amendments to the Constitution and meeting dates. The Constitutional changes relating to this Committee will need to be adopted by the full Council as soon as possible after the June Overview and Scrutiny Committee.

9. This report is based on draft Government regulations on Crime and Disorder Committees. It is possible that the details may change between now and final publication but it seems that the need to establish a Committee is clear and that the Council should be considering now how it intends to respond. Any changes in the final regulations will be reported to the Overview and Scrutiny Committee in June.

ZC\CONSTITUTION AND MEMBERS SERVICES STANDING SCRUTINY PANEL\2009\POLICE AND JUSTICE ACT 2006

# **Report to: Constitution and Members Services Panel**

**Date of meeting: 6 April 2009**

**Subject:** Overview and Scrutiny – Operational Review 2009

**Officer contact for further information:** Simon Hill

**Committee Secretary:** Mark Jenkins

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## **Recommendation:**

- (1) That the Panel consider and comment upon the issues raised by members and officers as part of the operational review for 2009 and make recommendations to Overview and Scrutiny Committee;**
- (2) That, subject to the agreement of the Cabinet members, the scheduled Cabinet and Scrutiny Finance and Performance Management meetings in January 2010 and subsequent years, be combined to consider the draft budget for 2010/11 and onwards; and**
- (3) That the Panel comment on the Training programme for 2009/10.**

## **Report:**

1. (Senior Democratic This year, as part of the Overview and Scrutiny Review, we have sought comments from members and officers about issues that should be covered in the review of operational arrangements. The Constitution contains a set of Operational rules which are attached as background.

### **Issues Raised by Members and Officers**

#### **Joint Finance meeting in 2010**

2. Over time the Council has developed an effective process for budget setting. This process starts during the autumn and culminates with setting of the precepts in mid-February. Officers believe there is scope to bring together meetings of the Finance and Performance Management Cabinet and Overview and Scrutiny Panel in January 2010 to enable joint consideration of the final draft budget. This would have the benefit for scrutiny in being able to question the Executive on their budget in a Panel setting and from the executive side, will enable Portfolio Holders to deal with queries before formal Cabinet and Council stages.

3. The Cabinet would need to agree to this proposal and should therefore be consulted on this matter.

### **Dealing with Consultation Documents**

#### **Views Expressed**

4. The scoping exercise for the review of Overview and Scrutiny expressed a view that, overall, the balance of items put forward to the Overview and Scrutiny Committee and Panels is skewed, with too much time taken up by responses to Government consultation papers and presentations from external bodies and not enough time on scrutiny of the Council's performance and that of its partners.

## Response

5. The Overview and Scrutiny procedure rules in the Constitution refer to Government consultation documents in the following terms:

“Review of implications of Government consultation documents where requested by members”.

6. In practice, although many consultation documents have been listed in the Council Bulletin, it has very rarely been the case that consultation document consideration has been requested by members themselves. More often the relevant Service Director has determined that the subject matter of a consultation document might be of interest to members and has therefore referred it to the appropriate scrutiny body. It has to be said that the majority of these references have been to the Constitution and Member Services Standing Scrutiny Panel. In the past year consultation documents have been reviewed on subjects such as reducing the voting age, changing the date of the 2009 elections, the Local Authority Publicity Code, etc. Others have been referred to the Standards Committee, namely those relating to the ethical framework.

7. The Constitution refers to “a review of implications” of Government consultation documents. This seems to imply something different than simply responding to the Government on the terms of those documents. It implies a forward look to examine what the implications of Government proposals might be if adopted in the future. This aspect has not been addressed.

8. There are thus two issues which could be addressed as part of the current review:

- (a) How should consultation documents be identified so as to bring them forward for detailed consideration and a response to be made to the Government?
- (b) How are the future implications of Government proposals as set out in consultation documents actually to be carried out?

9. On point (a), this role could be performed by an officer from Democratic Services (eg Assistant to the Chief Executive or Policy Officer) or a designated member. Whichever procedure is preferred, this could be covered by a listing of all such consultation documents received in the Bulletin coupled with an invitation to members to indicate which ones they would like to be given formal consideration. Bearing in mind the comments made in the scoping review, some consultation documents have provoked extensive discussion in Scrutiny Panels, often accompanied by further discussion at the Overview and Scrutiny Committee.

10. In one case (Local Authority Code of Publicity), there was an initial discussion at the Overview and Scrutiny Committee, a reference back to the Constitution Panel and then a reference to the Cabinet, with the result that two sets of observations were submitted to the Government, one from the Cabinet and one from the Overview and Scrutiny Committee. When the Overview and Scrutiny rules were last reviewed, there was a conscious decision taken to concentrate reviews of consultation documents with Overview and Scrutiny, thereby allowing the Cabinet to proceed with the management of executive functions. The feeling was at the time that if the Cabinet and Overview and Scrutiny both consider consultation documents, this would only result in duplication of effort. In relation to the Publicity Code, this appears to have happened.

11. On point (b) above, it is suggested that if Overview and Scrutiny receives a consultation document which seems to have implications in the future for the Council or the Cabinet then it may be that they need to consider whether or not a more in depth review of the implications should be added to the annual work programme. Such a process is not covered in the Overview and Scrutiny rules at present.

## Points to Consider

12. To review the terms of reference of the Overview and Scrutiny Committee in relation to Government consultation documents as follows:

(a) method of deciding on which consultation documents are worthy of detailed responses to the Government;

(b) responsibility for referring documents should be brought forward detailed consideration;

and

(c) linking the implications of consultation documents to the annual work programme of Overview and Scrutiny.

### **Outside speakers**

#### **Views Expressed:**

13. Some presentations can be helpful, but where they take place they would generally benefit from clearer objectives, pre-discussion of the topic by the committee / panel, and post-presentation follow-up (has anything been done about the issues raised?)

14. OSC is having lots of presentations from organisations that want to update councillors on what they are doing - questions are asked but this is not scrutiny. I think these presentations should be elsewhere.

15. Paper on Questioning Techniques page 79 says this is 'to fully utilise the presence of a witness giving evidence or officer being held to account'. Most of the presentations we get don't fall into this category.

16. We should not preclude the possibility of outside speakers being invited to a special meeting dedicated to that subject if we feel that would be worthwhile or that we feel they cannot be accommodated in a routine meeting. The rules do not need changing to permit this as far as I know. Where outside speakers do an annual presentation e.g LUL, then the previous promised actions can be followed up annually by reference to the minutes of the previous presentation (if the Members does his/her homework) but if the presentation is a one-off then the committee is entitled to ask that the interviewee responds on any of the agreed action points once they have been implemented or if there are any changed circumstances. Follow-up could be part of the O & S action plan.

17. Following the training that some of us had on scrutiny chairing and questioning, members of the then OSC did frequently meet before the main committee to decide the questions we wanted to ask. This works when the members have asked for a specific speaker because there are issues the members want to raise.

18. A reminder in the Bulletin of important items coming up in the next O & S meeting would be a good idea and also a reminder that the meeting is open to all Members who can submit their questions to the Chairman in advance or attend themselves and put their questions personally (normally after Members of the committee have had their say).

19. Where external speakers are coming to do a presentation and answer questions it is a good idea to have a pre-discussion either at the previous meeting about the scope of the questioning or a pre-meeting for this purpose, not seeking to limit discussion but more to deal with areas of concern in a logical way.

## **Response**

20. It has traditionally been the role of the main Overview and Scrutiny Committee to decide which organisations are asked to its meetings to make presentations. These have been quite wide ranging from the PCT, Police, ECC, CYSYP, LSP, Fire Service, LUL and other service providers. The aim of these presentations has been to give members an opportunity of questioning partners on their work and additionally taking up matters of concern that members may have from their local area.

21. The process for ensuring that members were in a position to question visitors to their meeting was based upon a pre-meeting at 7.00 p.m. prior to the main meeting. This worked for a time but over time these briefing sessions were poorly attended. Officers are currently trialling having a formal item on the meeting preceding the presentation to agree its scope and aims.

22. The OSC Work Programme could be developed to show required responses or action review at say, three month after the presentation as a routine or alternatively as part of the six monthly reviews of actions that already takes place.

### **Points to consider:**

23. Are the presentations Overview and Scrutiny Committee receive are the ones that are needed or wanted by members? How could members address this issue as part of the work programme process?

24. Could the emphasis for presentations be changed away from the main Committee?

### **Internal presentations**

#### **Views Expressed:**

25. All members should try to familiarise themselves with all areas of the Council's work and there may be some benefit in having presentations about them and/or visits to the appropriate areas. Getting to know the staff and the work they do is always beneficial but I am not sure this is a scrutiny issue unless there were perceived issues that have arisen in a particular service area that need to be addressed. A tour of the main building is always arranged by The Chairman for new Members. There is a good argument for repeating this every year as a familiarisation session for all Members as well as including external premises, however I believe attendance in the past has not been very high partly because it has to be done during the day; however it should still be offered.

#### **Response:**

26. During the induction period after their election we do attempt to address the problem of getting to know staff and directorate responsibilities. However, in such a large organisation it takes time to understand the various responsibilities. It is proposed to continue the Civic Office tour on 14 May as part of the annual members training offer which will include a talk with the Service Directors. In addition a tour of the district is to be organised in July 2009.

27. Internal presentations from staff would be better aimed at those areas subject to a service type review as part of a task and finish panel process. The same issues of relevance as external presentations apply here.

### **Points to consider:**

28. Do the Panel think that the level of input from and visits to directorates is at a correct level or should be reviewed? If so how this could be linked to the work programme?

## **Member Training - Overview and Scrutiny**

### **Views Expressed:**

29. Training on scrutiny chairing and questioning should be given each year.
30. Training in scrutiny and chairing would be valuable for all Members and a course is planned for this year. It may not warrant being a 'mandatory' course but it should come as a 'strongly recommended' course.

### **Response**

31. In the scoping review the view was expressed that there should be training every year on chairing scrutiny meetings and questioning skills. It was considered that training in scrutiny and chairing will be valuable for all members which, although it might not be a mandatory course for all Councillors, it would be strongly recommended for scrutiny chairmen and those engaged in questioning and gathering evidence from internal and external sources.
32. One training course is being held during 2009/10 on chairmanship and questioning and the trainer (EERA) has been briefed to ensure that this focuses on the overview and scrutiny role. If necessary, and subject to the budget, it may be possible to arrange a repeat course if demand warrants this. The 2009/10 training proposal is attached.

### **Points to consider:**

33. Does the 2009/10 training proposal satisfy the scoping comment mentioned above?

## **Reports by Chairmen of Panels**

### **Views Expressed:**

34. T & F and standing committee chairman should always do a brief report to O & S in writing and submitted a week ahead of the meeting so that O & S members have time to consider them and individual members of O & S should be able to request that the chairman attends the committee if they feel a more in depth discussion is required.
35. One of the objectives mentioned in the letter to councillors refers to 'streamlining' the process. It is not clear from the letter which aspects of the system are currently considered inefficient and it would be helpful to have more clarity about this. If streamlining is meant to imply a reduction in the scope of scrutiny, this should be resisted.

### **Response:**

36. The Overview and Scrutiny Committee has previously decided that they do not wish to consider their full work programme at every meeting but have opted for an exception reporting mechanism with a quarterly full report.
37. If members wanted a more formal reporting system, chairman would need to provide their commentary much earlier than one week before the meeting to meet the agenda preparation timetable. The view has been taken that if reports from Panel Chairmen are of a minor nature, e.g. minor changes to terms of reference or updates from recent meetings, that this is done orally at the meeting and reflected in the minutes. Would a more formal process become a bureaucratic burden to members and the committee? All of the Panel agenda and notes are available on the Council's website and members have the right to request that a matter is put on the agenda for the next available meeting to discuss any matter of concern. Progress is also shown on the full Work Programme in note form.

38. In terms of streamlining, the process of this review is to look at our procedures to ensure that they best meet the aspirations and needs of the members, not to attempt to reduce

the scope of scrutiny per se. Officers and member share the aim of having a vibrant scrutiny system and this can only be achieved by having a mix of reviews and monitoring processes.

**Points to consider:**

39. One issue that members may like to consider is whether the choices of Task and Finish review accurately reflect those issues that meet the current PICK system, whether this needs review or if the system of choosing matters for review could be better focussed on issues that either form part of our current plan statements or are of greater community interest?

**Panel Operational Matters**

**Views Expressed:**

40. Some scrutiny panels (e.g. Customer Transformation) have made efforts to get out of the Civic Offices and investigate how issues are addressed elsewhere. This is welcome and the example could usefully be followed by other panels.

41. Members of the Customer Transformation Panel also valued the opportunity to hear from 'frontline' staff - this is something that could be considered by other panels, as is considering opportunities to hear from residents/customers.

42. The conduct of individual committees is up to the Members of that committee. Some are better than others, but there have been some excellent examples of evidence being gathered both from within and outside the organisation.

**Response:**

43. Panels could be more proactive in visiting and meeting in external locations provided that the subject matter warrants it. There have been some good examples of visits and evidence taking as part of reviews. The involvement of 'frontline' staff again depends on the subject matter of the review. Evidence gathering from junior staff would need careful handling and done in such a way that they feel that they are not being 'held to account'. If more formal questions are needed to be answered during reviews then this should involve Service Directors.

44. Comments indicate that some Panels perform better in evidence gathering than others. Hopefully training in scrutiny chairmanship and questioning might help members in this regard. There is still a tendency within the Panels for officers to do the information gathering rather than the lead coming from members.

**Points to consider:**

45. Could the process of setting up Task and Finish Panels include, as part of the setting of the terms of reference, greater consideration of whether they need to visit or meet elsewhere than the Civic Offices or set out who they will take evidence from as part of the review.

46. How could members take a more active role in evidence gathering?

**Views Expressed:**

47. Reports going to scrutiny panels do not always appear to have been fully checked or proof-read (e.g. frequent arithmetical or typographic errors in the monitoring reports received by the Finance and Performance Management Scrutiny Panel).

[There is an] Inconsistent approach to minute-taking between panels (and minute-taking can vary in quality).

48. Where an agenda item is specifically within the remit of a Portfolio Holder then the



Portfolio Holder should make every effort to attend.

49. There appears to be a resourcing issue in terms of servicing some panels (e.g. incomplete reports).

**Response:**

50. The issue of mistakes in reports is not really a matter for the review but more a management issue for officers to ensure that the annual work programme for Overview and Scrutiny does not over-stretch officer resources.

51. It is the view of officers that the 'notes' (rather than minutes) of Panel have grown over time to become almost a verbatim record of the Panel meetings, which was not envisaged. It is proposed that from the new municipal year Panels meetings are recorded in a bullet point style e.g. the recording of discussion in bullet points and actions arising only.

52. The Overview and Scrutiny Committee has the right to require a Cabinet member to attend any of their meetings and indeed this extends to Panel meeting as well. This can be for purpose of gathering information, asking questions or holding them to account. A large proportion of the business of Overview and Scrutiny will inevitably concern one or more of the Portfolio Holders, although some matters will not be portfolio based, For example, elections and planning. It is the experience of officers that Cabinet members have been responsive in attending relevant meetings when requested. It is important for effective liaison and evidence gathering, that a clear brief is given to Cabinet members in advance of any meeting they are being required to attend. Additionally, if there were to be an expectation that Cabinet members attend meetings generally, this may pose an unrealistic expectation on Cabinet colleagues.

53. Officer resources have to be carefully managed to ensure that the annual work programme can be delivered. The number of senior officers writing reports for Overview and Scrutiny is smaller and any expansion of the programme puts greater pressure on officers to provide reports. Members could take a role in providing information.

**Points to consider:**

- (i) Does the Panel think that a bullet point note-taking style is acceptable?
- (ii) Is the Panel happy with the level of attendance by Cabinet Members and do they think that any Panel requiring specific attendance of a portfolio holder should provide a brief to that member?
- (iii) How could members have a greater role in report writing?
- (iv) Is the number, type and mix of Panels correct?

**Publicity for OSC**

**Views Expressed:**

54. With regard to paragraph 3, I have several times asked for wider publicity for a speaker, as I did for the Youth issues at the previous meeting, but I've not been aware of any effort to inform the public that an issue they have an interest in is taking place.

**Response:**

**Raising the Media Profile.**

55. A number of steps have been taken to give Overview and Scrutiny a distinct identity and voice within and outside the Council. It has its own separate branding, setting it apart from the main Council identity. Information has been developed in leaflets and on the Council

website to explain how Scrutiny works. The annual report of Overview and Scrutiny forms one of the core documents of the e-Annual Report. Scrutiny agenda are issued to the local media in advance of each meeting.

56. However, unlike the Cabinet and Council, the main role of Scrutiny is to investigate and advise. It is not a key decision making body and as such may be perceived as of lesser news value. This disadvantage may become more pronounced as the reduction in local media resources continues.

57. Reporters are tending to cover fewer meetings in general although webcasting is allowing them to view items from their home or office at a later date.

58. The potential to generate a higher media profile exists but is dependent to an extent upon the subject matter Members wish to cover. Viewed from an editors' perspective, controversial issues and heated debates on subjects of wide-spread public interest will gain more local media attention than equally relevant but less newsworthy items. Members of the Committee can aid the profile of the Overview and Scrutiny by contacting local reporters, offering views and quotes on the subjects of investigation and debate.

59. A member of the Public Relations Team covers each Overview and Scrutiny meeting in order to be better placed to answer subsequent media enquiries. Items from O&S are sometimes written up as part of the process or when the Committee reports into Cabinet. These items are generally placed by PR in the news section of the Council Website but may also be issued as press releases. Competing workload issues have made this difficult at times. However, since the recent purchase of a lap-top computer, PR staff are now able to draft such items during the evening meetings themselves without impacting on the following day's workload.

60. Members may wish to consider the expansion of Scrutiny presence on the Council Website as another means of raising the public profile. By removing another feature from the Homepage, it would be possible to create a 'Scrutiny Button'. However, such a presence must be backed up with new and regularly refreshed information. Such information could be uploaded by Democratic Services but would have staff resourcing issues. Forthcoming meetings of Scrutiny could also be publicised on the news section of the Website.

61. Forester remains one of the Council's principle forms of communication with residents and could provide a larger platform for information about Scrutiny. This would need to be balanced against other publicity priorities within Forester. To be most meaningful to residents, Forester would need the freedom to report the most newsworthy items, some of which might be controversial in nature, but which would engage most public interest.

**Points to consider:**

62. What ideas do the Panel have for raising the profile of Overview and Scrutiny?

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **CONTENTS**

#### **Rule**

1. Arrangements for Overview and Scrutiny.
2. Overview and Scrutiny Committee - Functions.
3. Overview and Scrutiny Committee - Terms of Reference.
4. Who may sit on the Overview and Scrutiny Committee?
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17. Rights of Overview and Scrutiny Committee Members to Documents.
18. Members and Officers Giving Account.
19. Attendance by Others.
20. Call-in.
21. Call-in and Urgency.
22. Procedure and Overview and Scrutiny Committee meetings.
23. Conduct of Overview and Scrutiny Functions.

24. Annual Report.
25. Party Whips.

Appendix 1 Protocol on Consideration and Reporting on Executive Decisions Called in by the Overview and Scrutiny Committee.

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. ARRANGEMENTS FOR OVERVIEW AND SCRUTINY**

- (a) The Council will, at the Annual Council meeting, appoint an Overview and Scrutiny Committee as set out in Article 6.
- (b) Each Overview and Co-ordinating Committee shall comprise 11 members, including a Chairman and Vice-Chairman appointed by the Council.

### **2. OVERVIEW AND SCRUTINY COMMITTEE - FUNCTIONS**

1. The Overview and Scrutiny Committee will discharge the Overview and Scrutiny functions conferred by Section 20 of the Local Government Act 2000 plus those responsibilities allocated by the Council.

### **3. OVERVIEW AND SCRUTINY COMMITTEE - TERMS OF REFERENCE**

1. The functions of the Overview and Scrutiny Committee shall be as follows:
  - (a) review of corporate strategies;
  - (b) ensuring that the decisions/actions of the Cabinet accord with the Council's policies and budget;
  - (c) monitoring and scrutinising the financial performance of the Council and making recommendations to the Cabinet in relation to annual revenue and capital guidelines, bids and submissions;
  - (d) when required, questioning members of the Cabinet or other Committees and officers about their decisions and performance whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
  - (e) making recommendations to Cabinet and appropriate Committees and the Council arising from the outcome of the overview and scrutiny process;
  - (f) review and scrutiny of the performance of other public bodies active in the District, inviting reports from them by requesting them to address the Committee and local people about their activities and performance;
  - (g) questioning and gathering evidence from any person (including Councillors, members of Council staff and others) on issues falling within the functions of the Committee;

- (h) determining terms of reference, memberships (including the appointment of Chairman and Vice-Chairman) and reporting for all Standing and 'Task and Finish' Scrutiny Panels;
- (i) scrutinising executive decisions;
- (j) considering and making responses to executive decisions which are called in either as a Committee or through referral to a Standing or 'Task and Finish' Panel;
- (k) monitoring the effectiveness of the call-in procedure, reviewing the number and reasons for call-in and making recommendations to the Council on any changes required to improve operation of the process;
- (l) monitoring and scrutiny of the Forward Plan;
- (m) review of implications of Government Consultation documents where requested by members;
- (n) reports on key performance Indicators referred to the Committee;
- (o) reports on Service Business Plans as requested by members;
- (p) receiving presentations from the Leader of the Council and other Portfolio Holders early in the Council year outlining their plans for the year ahead and reporting performance in the previous Council year;
- (q) consideration of requests from Cabinet for scrutiny involvement in policy development and determining appropriate action;
- (r) determining work programmes in accordance with items falling within Committee's ambit in accordance with (a)-(q) above.

#### **4. WHO MAY SIT ON THE OVERVIEW AND SCRUTINY COMMITTEE?**

1. All councillors except members of the Executive may be members of the Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision which he/she has been directly involved.

#### **5. CO-OPTEEES**

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

#### **6. MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEE**

1. Meetings of the Overview and Scrutiny Committee will be held in accordance with the Council's calendar of meetings in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman, or by the Proper Officer if he/she considers it necessary or appropriate.

## **7. QUORUM**

1. The quorum for the Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

## **8. WHO CHAIRS OVERVIEW AND SCRUTINY COMMITTEE MEETINGS?**

1. The Overview and Scrutiny Committee will be chaired by the Councillor appointed as Chairman of the Committee at the Annual Council meeting.

2. A Vice-Chairman will also be appointed by the Council at its Annual Meeting. The Chairman and Vice-Chairman of the Committee will be appointed from those Councillors serving on the Committee. The Chairman and Vice-Chairman will be appointed for a term of one year and will be eligible for re-appointment.

## **9. WORK PROGRAMME**

### **Responsibilities**

1. The Overview and Scrutiny Committee shall approve an Overview and Scrutiny Work Programme.

### **Compiling the Work Programme**

2. In determining the contents of the work programme, the Committee will:

- (a) seek proposals for inclusion from all Members of the Council through the Members' Bulletin;
- (b) invite the Leader of the Council and other Portfolio Holders to submit proposals in respect of the Council's executive functions;
- (c) arrange meetings with the Leader and other Portfolio Holders to discuss their plans for the year in question;
- (d) agree with the Leader of the Council and Portfolio Holders on any items for inclusion in the work programme which may be undertaken by Overview and Scrutiny on the Cabinet's behalf;
- (e) seek proposals from any partnership organisations on any projects which Overview and Scrutiny could undertake on behalf of those partnerships;
- (f) review the work programme for Overview and Scrutiny in respect of the current year.

### **Approving the Work Programme**

3. The Overview and Scrutiny Work Programme shall be approved prior to the Annual Council meeting each year and shall be of six months' duration. The programme shall be reviewed at or before the expiration of that six-month period.

4. The Committee will, in determining the work programme for Overview and Scrutiny:

- (a) review all proposals submitted to ensure that they relate to the Council's Policy Framework including the Community Strategy, the Improvement Plan, the Council Plan, and the Best Value Performance Plan;
- (b) ensure the agreed work programme has sufficient member and officer resources to support it;
- (c) identify in advance any budgetary provision required for specific projects;
- (d) ensure that the work programme is properly prioritised.
- (e) allocate time limits for each project;
- (f) ensure that any projects which do not find a place in the work programme are placed in a reserve programme for further review;
- (g) ensure that all Members of the Council are informed about the work programme as part of the annual report to the Council in April each year;
- (h) review the work programme on a regular basis during the year.

#### **Urgent Items and New Proposals**

5. Where new proposals or matters of urgency arise during the currency of an annual work programme, the Committee may:

- (a) determine that any new project should be added to the programme and adjust the remainder of the programme accordingly;
- (b) determine that a new project should be deferred for review when the next work programme is considered;
- (c) decline to accept an additional project and give grounds for so doing.

6. All proposals for additional or urgent projects shall be submitted in writing and presented at a convenient meeting of the Overview and Scrutiny Committee by the member or officer so proposing.

#### **Motions at Council Meetings**

7. Any motion adopted by the Council following due notice from a Member of the Council and which relates to the responsibilities of Overview and Scrutiny shall, on adoption, stand referred to the Overview and Scrutiny Committee for consideration. In determining how to respond to the motion, the Overview and Scrutiny Committee shall consider whether the proposal should be incorporated in the work programme or held for future consideration in accordance with the procedures outlined in Paragraph 4 and 5 above. The Committee shall also advise the Council, via the Members' Information Bulletin, of the action taken on such motions.

## **10. AGENDA ITEMS**

1. Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.
2. Any members of the Council who are not members of the Overview and Scrutiny Committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of that Committee. If the Proper Officer receives such a notification, then he/she will include the item on the first available agenda of the Overview and Scrutiny Committee for consideration.
3. The Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council or the Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Executive and/or the Council. The Executive shall consider the report of the Overview and Scrutiny Committee within one month of receiving it and the Council within two months of receiving it, or, in either case, as soon as is reasonably possible.

## **11. POLICY REVIEW AND DEVELOPMENT**

1. The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
2. In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Executive in so far as they relate to matters within their terms of reference.
3. The Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.
4. In carrying out any policy review or policy development work within their terms of reference, the Overview and Scrutiny Committee may refer all or part of such matters to a Standing Scrutiny Panel or a 'Task and Finish' Scrutiny Panel for consideration in accordance with the programme approved by the Overview and Scrutiny Committee.



## 12. STANDING SCRUTINY PANELS - PROCEDURAL REQUIREMENTS

1. Standing Scrutiny Panels may be established on an annual basis by the Overview and Scrutiny Committee.
2. Standing Scrutiny Panel status will be restricted to those activities of a recurring or cyclical character which require a longer term involvement by members.
3. The Overview and Scrutiny Committee shall determine the number and terms of reference of Standing Scrutiny Panels and shall review whether they should continue in being before the end of each Council year.
4. Standing Scrutiny Panels will:
  - (a) adhere to a work programme agreed by the Overview and Scrutiny Committee;
  - (b) have a chairman and vice-chairman appointed by the Overview and Scrutiny Committee;
  - (c) have memberships which reflect pro rata requirements and the lowest number of members required to achieve cross-party representation whilst allowing the inclusion of members who are not members of a political group or are not members of the Overview and Scrutiny Committee;
  - (d) have memberships which represent the minimum number necessary to adhere to their work programmes;
  - (e) be able to make proposals to the Overview and Scrutiny Committee for the variation of their terms of reference or work programme;
  - (f) be able to seek delegated authority from the Overview and Scrutiny Committee, to vary their terms of reference and work programme according to circumstances;
  - (g) report on a regular basis to the Overview and Scrutiny Committee on progress with their work programme and on any recommendations for consideration;
  - (h) be able, with the prior approval of the Overview and Scrutiny Committee, to report direct to the Cabinet, a Cabinet Committee or a Portfolio Holder, to another Committee or to the Council with recommendations.
5. Any member of the Council may be a member of a Standing Scrutiny Panel, provided that any Cabinet member may not be a member of a Panel which directly deals with matters within his or her portfolio.
6. Any member of the Council shall be able to attend any meeting of a Standing Scrutiny Panel and be notified of the publication of the agenda.
7. The provisions of Operational Standing Order 14 shall apply to Standing Scrutiny Panels.

### 13. 'TASK AND FINISH' SCRUTINY PANELS

1. 'Task and Finish' Scrutiny Panels may be established by the Overview and Scrutiny Committee in order to deal with ad hoc projects or reviews included in the annual work programme for Overview and Scrutiny.
2. 'Task and Finish' Scrutiny Panel status will be restricted to those activities which are issue-based, time limited and non-cyclical in character and have clearly defined objectives.
3. 'Task and Finish' Scrutiny Panels will:
  - (a) have terms of reference, membership and a work programme approved by the Overview and Scrutiny Committee;
  - (b) have a Chairman and Vice-Chairman appointed by the Overview and Scrutiny Committee;
  - (c) have memberships which need not be based on pro rata rules;
  - (d) have memberships which represent the minimum number necessary to adhere to their work programmes;
  - (e) be able to make proposals to the Overview and Scrutiny Committee for the variation of their terms of reference or work programme;
  - (f) be able to seek delegated authority from the Overview and Scrutiny Committee for the variation of their terms of reference and work programmes according to circumstances;
  - (g) report on a regular basis to the Overview and Scrutiny Committee on progress with their work programme and on any recommendations for consideration;
  - (h) report, with the prior approval of the Overview and Scrutiny Committee, direct to the Cabinet, a Cabinet Committee or a Portfolio Holder, to another Committee or to the Council.
4. 'Task and Finish' Scrutiny Panels shall be flexible as to the number of Councillors appointed to membership. There will be no restriction on the numbers appointed.
5. Any Councillor may be a member of a 'Task and Finish' Scrutiny Panel, save that a member of the Cabinet may not be a member of any Panel which bears directly on his or her portfolio.
6. No 'Task and Finish' Scrutiny Panel shall be comprised of members of a single group only.
7. Any member of the Council shall be able to attend any meeting of a 'Task and Finish' Scrutiny Panel and to receive copies of agenda.

8. The normal arrangements for substitute members as set out in Operational Standing Order 14 shall not apply to Task and Finish Panels but the Chairman of any such Panel shall have discretion to accept alternate members to cover for existing members for any meeting.

#### **14. NOMINATIONS TO STANDING SCRUTINY AND 'TASK AND FINISH' PANELS**

1. The Leader of each political group (and any Councillor who is not a member of a political group) shall be notified before the commencement of each Council year of the number of Standing Scrutiny and 'Task and Finish' Panels to be appointed and the number of members to serve on each Panel, indicating pro rata requirements where applicable. Similar notice will be given through the Members' Bulletin to other members of the Council.

2. The Leader of each political group will also be notified of the number of Chairmen and Vice-Chairmen positions to be filled before the commencement of each Council year.

3. Group Leaders shall ensure that members of all political groups have an opportunity to nominate to any positions referred to under 1 and 2 above. Any nominations may be made up to the day before the meeting in question. Such nominations shall include a case for the position sought.

4. Nominations to these Panels shall be excluded from the calculation required under the Council's protocol regarding allocation of Chairman and Vice-Chairman positions between the political groups.

#### **15. REPORTS FROM THE OVERVIEW AND SCRUTINY COMMITTEE**

1. Once recommendations on proposals for policy review or development, the Overview and Scrutiny Committee will prepare a formal report and submit it for consideration by the Executive if the proposals are consistent with the existing budgetary and policy framework, or to the Council if the recommendation would require a departure from, or a change to, the agreed budget and policy framework.

2. If the Overview and Scrutiny Committee cannot agree on a single final report to the Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.

3. Reports by the Overview and Scrutiny Committee shall normally be presented by the Chairman of that Committee, unless he or she determines that it would be beneficial for a Panel Chairman to undertake this role instead or that a joint presentation is appropriate.

#### **16. ENSURING THAT OVERVIEW AND SCRUTINY REPORTS ARE CONSIDERED BY EXECUTIVE**

**(a) Executive matters not delegated to the Cabinet, a Cabinet Committee or a Portfolio Holder**

1. Once the Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Proper Officer who will allocate it to either or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Proper Officer refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Executive will have 6 weeks or as soon as reasonably practical thereafter in which to respond to the overview and scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from the Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Executive to the overview and scrutiny proposals.

**(b) Executive Matters Delegated to an Executive Committee or Executive Member**

2. Where the Overview and Scrutiny Committee prepares a report for consideration by the Executive in relation to a matter where the Executive has delegated decision making powers to another individual member of the executive or to an Executive Committee, then the Overview and Scrutiny Committee will submit a copy of their report to that individual or committee for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the Proper Officer and the Leader. If the member or Executive Committee with delegated decision making powers does not accept the recommendations of the Overview and Scrutiny Committee then the matter will then be referred to the next available meeting of the Executive for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Executive member or Committee to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within 6 weeks of receiving it. A copy of his/her written response to it shall be sent to the Proper Officer and the Executive Member or Committee Chairmen will attend a future meeting to respond.

**(c) Cabinet Business - Work Plan**

3. The Overview and Scrutiny Committee will have access to the Executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the executive's consultation process in relation to any key decision.

**17. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

1. In addition to their rights as councillors, members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

2. Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Committee (or any Scrutiny Panel) as appropriate depending on the particular matter under consideration.

## **18. MEMBERS AND OFFICERS GIVING ACCOUNT**

1. The Overview and Scrutiny Committee or a Standing Scrutiny Panel or 'Task and Finish' Scrutiny Panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service, or Joint Chief Executive, the Head of Service, or Assistant Head of Service to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance;

and it is the duty of those persons to attend if so required.

2. Where any member or officer is required to attend the Overview and Scrutiny Committee or Panel under this provision, the Chairman will inform the Proper Officer. The Proper Officer shall inform the member or officer in writing giving at least 14 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

3. Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee or Panel concerned shall in consultation with the member or officer arrange an alternative date for attendance not less than 14 days from the date of the original attendance.

## **19. ATTENDANCE BY OTHERS**

1. The Overview and Scrutiny Committee or Panel may invite people other than those referred to in paragraph 17 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Such attendance is optional for those invited.

## **20. CALL-IN**

1. When a decision is made by the Executive, an individual member of the executive or a committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive, or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 5 working days of being made. All members of the Council will be sent copies of the written records of all such decisions within the same timescale, by the person responsible for publishing the decision.

2. That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless the required number of members objects to it and calls it in.

3. During that period, the Proper Officer shall call in a decision for scrutiny if so requested in accordance with paragraph (h) below and shall then notify the decision-taker of the call-in. He/she shall consult with the Chairman of the Overview and Scrutiny Committee who will determine that consideration of the call in will be referred to:

- (i) the next Overview and Scrutiny Committee; or
- (ii) an appropriate Standing Panel; or
- (iii) a Task and Finish Panel.

If consideration of any executive decision is likely, under these rules, to be delayed for more than two weeks the Chairman of the Overview and Scrutiny Committee may require an extraordinary meeting to be convened at an earlier date if the circumstances appear to warrant this.

4. If, having considered the decision, the Overview and Scrutiny Committee or delegated Panel is still concerned about it, then it may, subject to the procedures outlined in Rule 16(a) or (b) above, refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 5 working days, or in the case of a Cabinet decision, as soon as practically possible amending the decision or not, before adopting a final decision.

5. If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no power to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider within 14 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 14 working days of the Council request.

6. If the Council does not meet, or if it does but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

7. Where an Executive decision has been taken by an area committee, then the right of call-in shall extend to any 3 members of another area committee if they are of

the opinion that the decision made but not implemented will have an adverse effect on the area to which their committee relates. In such cases, those 3 members may request the Proper Officer to call-in the decision. He/she shall call a meeting of the Overview and Scrutiny Committee on such a date as he/she may determine, where possible after consultation with the chairman of the committee, and in any case within five days of the decision to call-in. All other provisions relating to call in shall apply as if the call in had been exercised by members of the Overview and Scrutiny Committee.

8. Three members of the Overview and Scrutiny Committee or any five members of the Council have the right to call in an Executive decision. Such a request shall be in writing in the prescribed format and referred in Person to the Proper Officer.

9. Call in arrangements shall not apply to decisions on non-executive functions by Committees, Sub-Committees, Panels or Boards of the Council.

10. In the operation of "call in" arrangements, members of the Council shall also adhere to the terms of the Protocol approved by the Council and set out in Appendix 1 to these rules.

## **21. CALL-IN AND URGENCY**

1. The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay is likely to be caused by the call in process would seriously prejudice the Council's or the public interest. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call in. The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, a Joint Chief Executive or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

2. The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## **22. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

1. The Overview and Scrutiny Committee shall consider the following business:
  - (a) minutes of the last meeting;
  - (b) declarations of interest;
  - (c) consideration of any matter referred to the committee for a decision in relation to a call in;

- (d) responses of the executive to reports of the Overview and Scrutiny Committee; and
- (e) the business otherwise set out on the agenda for the meeting.

## **23. CONDUCT OF OVERVIEW AND SCRUTINY FUNCTIONS**

1. Where the Overview and Scrutiny Committee or a Panel conducts investigations (e.g. with a view to policy development), they may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:

- (a) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (b) that those assisting the committee by giving evidence be treated with respect and courtesy; and
- (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

2. Following any investigation or review, the Committee/or Panel concerned shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

## **24. ANNUAL REPORT**

1. The Overview and Scrutiny Committee shall submit an annual report to the Council in April each year on work undertaken during the preceding 12 months.

## **25. PARTY WHIPS**

1. To facilitate cross party working, party whips will not be applied to the overview and scrutiny process.



**PROTOCOL ON CONSIDERATION AND REPORTING ON EXECUTIVE DECISIONS  
CALLED IN BY OVERVIEW AND SCRUTINY**

**1. Purpose of Protocol**

(a) To codify how the Overview and Scrutiny Committee or delegated Panel should deal with "call in" items.

(b) To codify how the Executive should respond to reports by Overview and Scrutiny on decisions which have been called in.

**2. Validation of "Call In"**

2.1 All "call in" requests shall be made in writing in accordance with the Council's constitution. "Call in" requests shall only be made by members of the Council who are not members of the Executive. The "call in" shall be validated by the Chief Executive and referred to the Overview and Scrutiny Committee for consideration in accordance with the provisions of the constitution.

**3. Consideration of "Call In" Items by Overview and Scrutiny Committee**

3.1 Consideration of Call-ins shall be the responsibility of the Overview and Scrutiny Committee which will decide whether to consider the issue itself or direct a Panel to undertake it and report back to the decision maker. "Call in" items shall be referred to the next available date for the Overview and Scrutiny Committee or delegated Panel. The provisions of the Overview and Scrutiny Rules in the Council's constitution will apply to "call in" requests which need to be dealt with more quickly.

3.2 At its meeting, the Overview and Scrutiny Committee or delegated Panel will receive:

(a) copies of all documentation submitted to the Executive on which the decision was based;

(b) a copy of the written notification of the "call in" including the names of the relevant Councillors who requested the "call in" and their grounds for so doing; and

(c) any other relevant documentation.

3.3 The relevant Executive Portfolio Holder and at least one of the members who activated the "call in" and who shall act as spokesperson for those members, shall attend the Overview and Scrutiny Committee or delegated Panel meeting.

3.4 The "call in" decision shall be considered in the following manner:

(a) the representative of the Councillors calling in the decision shall describe their concerns;

(b) the Portfolio Holder shall then respond

- (c) the Overview and Scrutiny Committee or delegated Panel will then debate the issues involved. The Chairman of the meeting shall have the discretion to vary the way in which evidence is gathered including speakers and public participation if appropriate but shall seek a response from the initiating Councillor(s) and the Portfolio Holder before formulating its recommendations;
- (d) The Overview and Scrutiny Committee or delegated Panel has the following options:
- (i) confirm the decision, which may then be implemented immediately, or
  - (ii) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or
  - (iii) refer the matter to full Council in the event that the Committee or Panel considers the decision to be contrary to the policy framework of the Council or contrary to, or not wholly in accordance with, the budget.
- (e) If it appears that the review of a decision of the Executive cannot be completed at one meeting, the Executive or decision taker will be informed, indicating any preliminary views the Committee or Panel may have and a proposed timescale for the completion of the review. The Chairman of the Overview and Scrutiny Committee/Panel shall, if necessary, consult with the Leader of the Council regarding the urgency of the proposed decision or any other related matter;
- (f) The Chairman of the Overview and Scrutiny Committee or delegated Panel shall sum up the recommendations to be submitted to the Executive and these shall be incorporated in full in the Minutes or report of the meeting;
- (g) In cases where the Overview and Scrutiny Committee or delegated Panel determines that a review of the decision is not justified or that, having reviewed the decision of the Executive, it has no adverse comment to make, the Committee or Panel shall ensure that its decision is published in the Members' Bulletin;
- (h) In the circumstances outlined in (g) above, the decision of the Executive or Decision Taker may be implemented with effect from the date of that meeting;
- (i) A report detailing any appropriate recommendations of the Overview and Scrutiny Committee or delegated Panel shall be reported to the Decision Taker
- (j) In presenting the recommendations of the Overview and Scrutiny Committee or delegated Panel, the Chairman may make general comments on the Committee's/Panel's recommendations, answer questions and respond to comments or new proposals made by the Executive at that meeting; and
- (k) The report of the Overview and Scrutiny Committee or delegated Panel shall be sent in draft to all its Members for approval prior to their submission to the Decision Taker.
- (l) Minority reports may be made by members of Overview and Scrutiny Committee or delegated Panel in accordance with the Protocol for that purpose.

#### **4. Consideration of Reports on "Call In" Items by the Executive**

- 4.1 The report of an Overview and Scrutiny Committee or delegated Panel will be referred in the first instance to the relevant Portfolio Holder(s) for the executive function concerned.
- 4.2 If the Executive decision is one which the Portfolio Holder(s) has delegated powers to make, he or she shall consider the written proposals of the Overview and Scrutiny Committee or delegated Panel, must consult the Overview and Scrutiny Committee and delegated Panel Chairmen if he or she is minded to accept or reject them. In doing so the Portfolio Holder will ensure that, in recording that decision, the reasons for accepting, rejecting or amending those views are set out in the decision notice.
- 4.3 If the Executive decision is one which the Executive itself or a Committee of the Executive (acting under delegated powers) is competent to take, the relevant Portfolio Holder will consider the proposals of the Overview and Scrutiny Committee or delegated Panel and refer them, with his or her written response, to the decision making body concerned.
- 4.4 At a meeting of the Executive or of any Committee of the Executive, the following documentation shall be submitted:
  - (a) the agreed report of the Overview and Scrutiny Committee or delegated Panel and any other supporting documents considered by it;
  - (b) a report of the Portfolio Holder indicating the response to the proposals of the Overview and Scrutiny Committee or delegated Panel, indicating the options available and recommendation for acceptance, rejection or alteration of those proposals with reasons; and
  - (c) any other information.
- 4.5 The Executive or Committee of the Executive shall consider the matter as follows:
  - (a) the Chairman of the Overview and Scrutiny Committee or delegated Panel shall present the views and recommendations of the Committee/Panel based on the report of the relevant OSC meeting and respond to questions, make general comments and respond to new proposals as appropriate;
  - (b) the relevant Portfolio Holder shall then respond by presenting his report and recommendations on the proposals of the Overview and Scrutiny Committee or delegated Panel;
  - (c) the Executive (or Committee thereof) shall then consider the original decision, the views of the Overview and Scrutiny Committee or delegated Panel and any proposals by the Portfolio Holder; and
  - (d) the Executive (or Executive Committee) will then make a final decision on whether to re-affirm the original decision, amend the original decision or substitute a new decision. This decision shall be recorded in the minutes of the meeting together with supporting reasons.

4.6 Where a Committee of the Executive is required to report to the full Executive on any matter, it shall submit a recommendation on action proposed to the Executive as part of the minutes of the meeting.

## **5. Implementation of Decisions When Cabinet Control or Membership Changes**

5.1 Notwithstanding the provisions of paragraphs 3.4(g) and (h) above, where political control of the Cabinet or Cabinet membership changes following the Annual Council meeting each year, any decision made by the Executive and supported by the Overview and Scrutiny Committee or delegated Panel following a "call-in" but not implemented before the changes occur, shall stand referred to the Cabinet for further review before action is taken.

## **6. Consideration of "Call In" Reports of Overview and Scrutiny Committees made to the Full Council**

6.1 In some circumstances, the Overview and Scrutiny Committee or delegated Panel may choose to refer the results of their consideration of "call in" items to the full Council, rather than the Executive in those instances set out in paragraph 3.4 (d) (iii) above and 6.2 below. With any necessary modification the "call in" shall be dealt with at the Council meeting in accordance with paragraphs 4.1 - 4.5 above.

6.2 In considering whether to report to the full Council, the Overview and Scrutiny Committee or delegated Panel shall take account of the advice of the proper officer on:

(a) whether the Council may properly determine the matter if the function is delegated to the Executive;

(b) whether the Executive decision affects the policy or budget framework of the Authority and should properly be determined by the Council;

(c) whether the Executive decision relates to a matter which either reserved to the full Council by the constitution or by resolution; and

(d) any other advice which indicates that, for whatever reason, a report to the Executive is more appropriate to the proper despatch of Council business.

## **7. Restriction on "Call In"**

7.1 The Overview and Scrutiny Committee shall at all times be aware that the decisions of the regulatory or non-executive bodies of the Council are not subject to "call in".

7.2 The "call in" procedure shall also not apply to any recommendation by the Cabinet to the full Council.

## **8. Definitions**

8.1 For the purpose of this Protocol, the following definitions shall apply:

**(a) "Executive"**

This term should be interpreted as referring to the Cabinet, a Cabinet Committee or an individual Portfolio Holder acting under delegated powers.

**(b) "Decision"**

Denotes a decision on an Executive function by the Cabinet, a Committee of the Cabinet or of an individual Portfolio Holder.

**(c) "Decision Taker"**

This means the Cabinet, a Cabinet Committee or an individual Portfolio Holder who made the original decision.

## **9. Review of Protocol**

9.1 This Protocol will be reviewed by the Council as part of its constitution as and when appropriate.

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## List of Members' Training Courses

<b>Ref. No.</b>	<b>Course Title</b>	<b>Date</b>	<b>Page</b>
<b>Mandatory Sessions</b>			
M1	Equalities and Diversity	May 2009	6
<b>General Sessions</b>			
M2	Tour of Civic Offices / Directorate Awareness	May 2009	8
M3	Planning Systems Including Pin Point Mapping	May 2009	9
M4	Awareness Session / Code of Conduct re Complaints Process	May	
M4	Effective Member / Officer Relations	June 2009	10
M5	Awareness Session / Council Role in LA's Assisting Local Businesses	June 2009	11
M6	Awareness Session / Tour of the District - General	July 2009	12
M7	Dealing with Difficult People and Situations	July 2009	13
M8	Presentation Skills	September 2009	14
M9	Awareness Session / Tour of the District - Housing	September 2009	15
M10	Awareness Session / Finance GRF/HRA and Budget Process	September 2009	16
M11	Media Skills – Front of Camera Skills	October 2009	17
M12	Public Speaking	October 2009	18
M13	Effective / Speed Reading	October 2009	19
M14	S106 Agreements	November 2009	20
M15	Practical Conflict Training	November 2009	21

M16	Freedom of Information and Data Protection	November 2009	22
M17	Chairmanship and Questioning Skills (emphasis on Overview and Scrutiny Role)	December 2009	23
M18	Awareness Session / Emergency Planning – Rest and Reception	January 2010	24
M19	Awareness Session / Gypsy and Traveller Briefing / LDF	January 2010	25
M20	Awareness Session for Candidates / Being a Councillor	March 2010	26

## **Additional Sessions**

M21	Housing Appeals and Homelessness Reviews	If Required	28
M22	Licensing Panel – Introduction	If Required	29
M23	Complaints Panel	If Required	30
M24	Staff Appeals Panel	If required	31
M25	Revised Code of Conduct	If Required	32
M26	Revised Planning Protocol	If Required	33

**NOTE: The final dates for these courses will depend on trainer availability.**



## **Report to Constitution and Members' Services Standing Scrutiny Panel**

**Date of meeting: 6 April 2009**

SCRUTINY



**Portfolio:** Leader

**Report of:** Assistant to the Chief Executive

**Subject:** Officer Delegation - Annual Review 2008/9

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

**Democratic Services Assistant:** M Jenkins (01992 564607)

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### **Recommendations:**

- (1) To consider the proposals for changes to officer delegation as set out in Appendix 1 to this report and to recommend their adoption by the Leader of Council;**
- (2) To consider the proposed changes to officer delegation as set out in Appendix 2 and to recommend these changes to the Council at its April 2009 meeting; and**
- (3) To authorise the Assistant to the Chief Executive to incorporate within the final versions of officer delegation minor drafting changes including typographical errors, changes in officer delegations as a result of Senior Management Review and any changes in legislation which have occurred since the last review took place.**

### **Report:**

1. Each year the Council reviews its scheme of officer delegation and this task has once again been undertaken by a working party of officers.
- ... 2. Appendix 1 to this report sets out changes to delegation being proposed in respect of Cabinet functions whilst Appendix 2 shows changes to functions which remain the responsibility of the Council. This latter category includes regulatory and non-executive functions.
3. One change which will take effect from 2009/10 is in relation to the approval of officer delegation of Cabinet functions. Previously any changes have been referred to the Council for approval but it will now be the Leader of the Council who determines whether the scheme of officer delegation is to continue or whether changes should be made.
4. With this in mind, any recommendations arising from Appendix 1 will be submitted to the Overview and Scrutiny Committee for approval prior to submission to the Leader of Council. In relation to Appendix 2, the Panel would recommend to the Overview and Scrutiny Committee and, through that Committee, the Council.

5. The two Appendices show amendments in matters of substance relating to officer delegations. There are a number of typographical corrections, changes in officer delegations and responsibilities, changes in legislation or minor drafting changes which also need to be dealt with. Authority is requested from the Panel that the Assistant to the Chief Executive should make these minor alterations, prior to submission to the Council and the Leader of the Council.

## WORKING GROUP ON CONTRACT STANDING ORDERS, FINANCIAL REGULATIONS AND OFFICER DELEGATION

### SCHEDULE OF DELEGATION REVIEWS - EXECUTIVE

#### 1. North Weald Airfield - Non Commercial Lettings (Delegation Reference N2)

The Current wording of delegation N2 places responsibility for all lettings of the Airfield with the Director of Corporate Support Services. The delegation does not reflect the involvement of Airfield staff in negotiating routine or casual bookings of Airfield facilities which is the responsibility of the Director of Environment and Street Scene.

The Director of Corporate Support Services is responsible for negotiating other bookings (i.e., those which are not routine) and also for drawing up licences and similar agreements. Equally, the Director of Corporate Support Services may draw up agreements for lettings etc., negotiated by the Airfield Manager.

It is suggested that the delegation should be re-drafted to reflect better the roles of the two Directorates concerned.

#### Recommendation:

That delegation N2 be revised as follows:

Function	Responsible
(a) To negotiate and produce agreements and licences for all regular bookings and single events (of a non public character) which comply with the standard licence agreement and fees operated by the Council	Director of Environment and Street Scene (or nominated officer)
(b) To negotiate in liaison with the Airfield Manager, any arrangements regarding use of the Airfield (except those which fall under item (a) above), and, where appropriate, to draft and execute appropriate agreements or licences for all Airfield uses including any negotiated under (a) above, which may be referred to the Director of Corporate Support Services.	Director of Corporate Support Services (or nominated officer)

## 2. Licensing - Hackney Carriage and Private Hire Vehicle Drivers (Delegation Reference S1)

The Licensing Committee revised the officer delegations in respect of Hackney Carriages etc at its meeting in October 2008, as follows:

"1. All applications for Hackney Carriage and Private Hire Vehicle Driver's licences will be determined by the Director of Corporate Support Services, the Assistant Director of Legal Services and the Senior Licensing Officer or suitably qualified officers authorised by them to exercise this function except in the following circumstances when the application will be referred to the Sub-Committee:

(a) where there have been breaches of condition of a previous driver's licence or related law in the preceding twelve months;

(b) an applicant fails to comply with the Council's licensing procedure or meet the experience or medical fitness requirements;

(c) where in the opinion of the Council's medical advisor (or doctor nominated by them), an applicant is not medically fit to hold a driver's licence;

(d) an applicant for a driver's licence has any unspent criminal convictions;

(e) an applicant has motoring convictions listed below:

(i) disqualification from driving by a court for any reason within the preceding ten years;

(ii) an accumulation of a total of ten or more penalty points from endorsable motoring offences in any of the preceding five years; or

(iii) any unspent conviction for an offence or offences within the following categories:

- CD10 Driving without due care and attention;
- CD20 Driving without reasonable consideration for other road users;
- CD30 Driving without due care and attention or without reasonable consideration for other road users;
- CD40 Causing death through careless driving when unfit through drink;
- CD50 Causing death by careless driving when unfit through drugs;
- CD60 Causing death by careless driving with alcohol level above the limit;
- CD70 Causing death by careless driving then failing to supply a specimen for analysis; or
  
- DD30 Reckless driving;
- DD40 Dangerous driving; or
  
- IN10 Using a vehicle uninsured against third party risks."
  
- SP60 Undefined speed limit offence

2. Where Director of Corporate Support Services, the Assistant Director (Legal) or the Senior Licensing Officer consider it appropriate to exercise her discretion by

reason of their concern as to the suitability of the applicant they may refer the application to the Licensing Sub-Committee.

3. The Director of Corporate Support Services, the Assistant Director (Legal) and the Senior Licensing Officer may grant at their discretion a licence for a short period until the next meeting of the Licensing Sub-Committee if a driver wishing to renew his or her licence has committed an offence such that there is no delegated authority to renew the licence.

**Recommendation:**

**To incorporate these changes in the schedule of delegation**

**3. Parking Contravention Notices (New Delegation)**

The schedule of delegation currently omits any reference to the Traffic Management Act 2004 and the supporting operational guidance from the Government regarding parking policy and enforcement.

The Act requires that elected members and unauthorised staff should not be involved in adjudicating on the outcome of individual challenges or representations in response to contravention notices. The statutory requirement is for such matters to be dealt with by fully trained staff to ensure that the criteria for cancelling notices are followed.

**Recommendation:**

**That the following new delegation be included in the Schedule of Delegation as follows:**

**"Traffic Management Act 2004 - Penalty Charge Notices (Parking)**

**To consider representations or challenges to Penalty Charge Notices issued by the Council and decide, if the evidence or circumstances provide grounds for doing so, to cancel any notice.**

**Director of Environment and Street Scene (or suitably qualified staff authorised to act on his behalf)"**

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**WORKING GROUP ON CONTRACT STANDING ORDERS, FINANCIAL REGULATIONS  
AND OFFICER DELEGATION**

**SCHEDULE OF DELEGATION REVIEWS – COUNCIL**

**1. Development Control (Delegation Reference P4 (g) and (h).)**

**(a) Local Councils and Members' Requests for Reference of Planning Applications to Area Plans Sub Committees**

1. This delegation relates to planning applications which would normally be dealt with under delegated authority but which under certain circumstances can be referred to an Area Plans Sub Committee.

2. Items (g) and (h) of P4 was amended last year to require that member requests for applications to be referred to Area Plans Sub Committees should be subject to a deadline of 4 weeks from the date of receipt of the relevant Council Bulletin list. This was to avoid such requests being received shortly before Sub Committee meetings resulting in the item having to be deferred to a later meeting with an adverse effect on the Council's performance against the eight week BVPI target.

3. A similar change was made in respect of representations by local councils whereby such comments would only result in reference to a Sub Committee if the views expressed related to material planning considerations.

**Planning Comments:**

4. The net effect of these changes, together with the change to the 3 weeks Area Plans Sub cycle has resulted in 36 more cases being determined within the 8 week period.

**Recommendation:**

**To confirm the changes to P4(g) (subject to item (b) below) and (h).**

**(b) Objections by Parish and Town Councils (Delegation Reference P4)**

5. Item P4(g) requires that any proposed decision under the Director of Planning and Economic Development's delegated authority to grant consent contrary to an objection from a local council on grounds which are material to the planning merits of the proposal, must be referred to Area Plans Sub Committee for determination. This change was made last year for a trial period of one year.

**Councillor J Knapman** wishes the Panel to consider the following proposal:

6. "Delegated powers should not be used if the Director of Planning and Economic Development intends to refuse a planning application where a local council

has indicated a measure of support in its response and that such cases should stand referred to the relevant Area Plans Sub Committee.

Reason:

7. "Most Parish Councils state "no objection" which appears to be viewed by Planning Officers as a neutral stance on applications, thereby giving authority to make a delegated decision either to grant or refuse consent. Sometimes, the comments of local councils which accompany "no objection" can indicate support for an application. The officer delegation should therefore provide for such comments to be taken into account in deciding whether reference to a Sub Committee should take place."

### **Comments from Planning Directorate**

(1) This proposal would lead to uncertainty since it is unclear what should be taken as an indication of support. Because of the lack of clarity the amendment will be likely to lead to disagreements on whether a local council has actually expressed support. Councillor Knapman's proposal could therefore cause uncertainty and conflict between officers, members and local councils. That uncertainty could also threaten the validity of decisions taken under delegated powers and therefore leave them open to legal challenge.

(2) It should be recalled that if local councils are supportive of an application it is open to them under existing arrangements to express their support. They can start their comments with the word "Support".

(3) The proposal will also result in more applications going to Committee for decision. This could result in a decision on an application being made outside the statutory period. The District Councils' objective of achieving upper quartile performance for planning performance could therefore be undermined.

8. As an alternative, it is suggested that further advice could be given to local councils to avoid any ambiguity in their responses. It is also suggested that when the Council is, moving to an era of electronic responses, it might be useful to include "tick" boxes with supporting comments which make the views of the local council clear.

**Recommendation:**

**To consider the following options:**

**Option 1 - to amend P4(g) to read as follows:**

**"Applications recommended for refusal contrary to an objection from a local council which are material to the planning merits of the proposal or applications recommended for refusal where the local councils have made representations which indicate support for the granting of consent, even if no objection is raised to the proposed decision."; or**

**Option 2 - to give further advice to local councils on the current format for submission of applications.**



**(NB underlined text shows additions to the present wording of P4(g) if Councillor Knapman's proposal is agreed )**

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