

Scrutiny Standing Panel Agenda



Constitution and Members Services Scrutiny Standing Panel Monday, 14th September, 2009

Place: Committee Room 1

Time: 7.30 pm

Democratic Services Officer: I Willett - The Office of the Chief Executive
Tel: 01992 564243 Email: iwillett@eppingforestdc.gov.uk

Members:

Councillors Mrs M McEwen (Chairman), J Philip (Vice-Chairman), Mrs P Brooks, Ms J Hedges, J Knapman, J Markham, G Mohindra, R Morgan, D Stallan, Mrs M Sartin 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 - 12)

The notes of the last meeting of the Panel held on 29 June 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 13 - 18)

(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 19 - 22)

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

7. AUDIT REVIEW - EXTERNAL ORGANISATIONS AND PARTNERSHIPS (Pages 23 - 42)

Recommendations:

- (1) To note the findings of an Internal Audit report on the protocol for external partnerships;**
- (2) To note action being taken to comply with these recommendations; and**
- (3) To consider any other matters which should be examined in relation to the protocol.**

1. (Assistant to the Chief Executive) A summary of an internal audit report about partnership working by the Council is attached as Appendix 1. The report has been accepted by the Audit & Governance Committee and the recommendations of the audit report are being implemented. Appendix 2 sets out the protocol as currently published in the Constitution.

2. The Protocol has previously been reviewed by this Panel and this may be an opportunity for members to indicate whether there are any other matters they wish to investigate.

8. LOCAL DEMOCRACY - REVIEW OF PETITIONS PROCEDURE & ELECTRONIC SYSTEM

(Senior Democratic Services Officer). To receive an oral report on the current position.

9. 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.

10. FUTURE MEETINGS

The next programmed meeting of the Panel will be held on 2 November 2009 at 7.30p.m. in Committee Room 1 and then on:

11 January 2010; and
22 March 2010

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**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION AND MEMBERS SERVICES SCRUTINY
STANDING PANEL
HELD ON MONDAY, 29 JUNE 2009
IN COMMITTEE ROOM 1
AT 7.30 - 9.35 PM**

Members Present: Mrs M McEwen (Chairman), J Philip (Vice-Chairman), Ms J Hedges, J Markham, G Mohindra, R Morgan, Mrs M Sartin (Environment Portfolio Holder), D Stallan (Housing Portfolio Holder) and Mrs J H Whitehouse

Other members present:

Apologies for Absence: Mrs P Brooks and J Knapman

Officers Present I Willett (Assistant to the Chief Executive), N Richardson (Assistant Director (Development Control)), S G Hill (Senior Democratic Services Officer), W MacLeod (Elections Officer) and M Jenkins (Democratic Services Assistant)

1. NOTES OF THE LAST MEETING

That the notes of the last meeting of the Panel, held on 6 April 2009, be agreed subject to Councillor R Morgan be entered as having been present at the meeting.

2. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

There were no substitute members at the meeting.

3. DECLARATION OF INTERESTS

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

4. TERMS OF REFERENCE / WORK PROGRAMME

The Panel was advised of the following:

- Item 3 Planning Applications – Comments by Parish Councils, awaiting completion later at this meeting;
- Item 9 Review of Internal Audit Report – External Partner Organisations, was due for review by the Panel in September 2009; and
- Item 10 Local Democracy – Review of Petitions Procedure and Electronic Systems was due at the Panel in September 2009 depending on Government legislation.

5. OVERVIEW AND SCRUTINY REVIEW

At the last meeting of the Panel, the Members had discussed part of the Overview and Scrutiny Review. The Panel's discussion of the review was continued from where the last meeting had ended.

(a) Reports of Chairmen of Panels – Streamlining Procedures

Members requested fuller details of forthcoming items at Overview and Scrutiny meetings. Officers advised that this would be done through the Bulletin.

The review suggested scrutiny panels extend their pro-activity by visiting and holding meetings at external locations. It was suggested that enquiring of other councils about their scrutiny processes would assist the District Council. It was felt that Overview and Scrutiny was officer led and needed more Member input. Members were interested in investigating other scrutiny methods practised by local authorities. They asked officers to collate a list of Council websites to help them study other scrutiny systems.

AGREED:

That S Hill, Senior Democratic Services Officer, collate a list of Council websites to be put before the Panel.

(b) Reports

Members felt that officer reports to Panels had mistakes on them and there was an inconsistency in the style of notes taken. Officers advised that errors on Panel reports were sometimes due to officer workloads and time constraints in preparing reports. Notes could be briefer, perhaps starting with a two line preamble and continuing with a bullet point note taking style. The Panel, which felt that Portfolio Holders sometimes attended scrutiny without adequate preparation, they should receive better information on the subjects that they were likely to be asked about.

RECOMMENDATION:

- (1) That a bullet point note style be used in all Scrutiny Panel notes.
- (2) That Portfolio Holders attending Scrutiny Panel meetings be fully briefed on the subject they are speaking on.

(c) Overview and Scrutiny – Improved Profile

Members felt that Overview and Scrutiny needed a distinct identity within and outside the Council because it had proved difficult to generate sufficient interest in its work outside the Council. Although the District Council's Public Relations Team attended OSC meetings it was difficult to generate sufficient media interest. Wider notice could be given of forthcoming speakers although it was acknowledged that the local press might not provide adequate space for publishing OSC business. Members requested information on the publicity activities of other councils.

AGREED:

That officers collate information on Council publicity activities.

6. OFFICER DELEGATION - PLANNING APPLICATIONS: COMMENTS BY TOWN AND PARISH COUNCILS

The Assistant to the Chief Executive, Mr I Willett, presented a report to the Panel regarding Officer Delegation – Planning Applications: Comments by Town and Parish Councils.

This matter had been considered by the Panel on 6 April 2009, there had, since then, been a request by the Council for a further opportunity for discussion to clarify the issue.

Councillor J Knapman had requested that the Panel consider the following proposal:

“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.”

The reason for this proposal was that local councils stated “no objection” to applications which had appeared to be interpreted by Planning Officers as taking a neutral stance on these applications. This gave authority to make a delegated decision for granting or refusing consent. Officer delegation provided for such comments to be taken into account in deciding whether reference to a Sub-Committee should take place.

Members noted that the issue raised by Councillor J Knapman was already covered in clause P4 (I) of the Planning Protocol. Determination under delegated powers was not reliant upon whether the local council had used or not used the term “Support” or “No Objection” but whether there were overriding reasons for refusing the application in any event.

It was recommended that officers use discretion in holding expressions of support from local councils by providing guidance on planning issues to local councils through the Member Training Programme and council meetings. Reassurance on this issue would be passed to parish clerks via letter and at the Local Council Liaison Committee.

Mr N Richardson, Principal Planning Officer, felt that single storey rear extensions were causing concern with some local councils. This had resulted in some applications of this nature being referred to Area Plans Sub-Committees when granting of consent at officer level was the norm. He said that P4 (g) of the Planning Protocol covered this area. Members requested that N Richardson monitor single storey rear extension applications, that came before committee, until March 2010.

RECOMMENDATION:

(1) That no change be made to the terms of delegation to the Director of Planning and Economic Development regarding reference of planning applications to Area Plans Sub Committees;

(2) That new guidance be given to Parish Councils regarding how to frame their consultation responses and, in particular, the use of the terms ‘support’, ‘oppose’ ‘no objection’ and ‘no comment’ and that if necessary the matter be raised at a meeting of the Local Councils’ Liaison Committee;

(3) That the Director of Planning and Economic Development be asked to use his discretion on how Parish Council responses are handled and whether any

case should be referred to an Area Plans Sub Committee in the light of those responses;

(4) That the possibility of extending delegation to officers to approve routine applications in respect of single storey rear extensions to residential properties be deferred for consideration at the next review of delegation; and

(5) That, pursuant to (4) above, the Director of Planning and Economic Development monitor the number of such applications being referred to Area Plans Sub Committees and the decisions made.

7. REVIEW OF EUROPEAN, COUNTY, DISTRICT AND PARISH ELECTIONS

The Returning Officer, Mr I Willett, presented a report regarding the Elections in June 2009.

The following elections were held on 4 June 2009:

- (a) Seven County electoral divisions;
- (b) One District Council by-election for the District ward of Waltham Abbey Honey Lane;
- (c) One Parish Council by-election for the Parish ward of Buckhurst Hill (East); and
- (d) Election of seven members of the European Parliament for the eastern region of the UK.

Electoral Statistics

- Voter turnout in the district, at the various elections, reached 46%.
- 8,167 postal votes were issued.
- 70% of postal votes issued were returned.

Polling Stations

Although the majority of polling stations used were those which had been established for many years, there were some changes this year:

- **Field Station at Gunpowder Park, Waltham Abbey**

The polling station for the Sewardstone area had been Sewardstone Village Hall. Because of the building's poor state this had been changed to Lee Valley Caravan Park. However building alterations had led to the new polling station being at the Gunpowder Park.

- **Sheering**

In the 2008 election the Sheering polling station was situated in the local public house. However there were issues concerning adequate screening from the rest of the public house. There would be further discussions with the owners regarding screening arrangements.

- **Theydon Bois**

The polling station had been in Theydon Bois Village Hall. However in 2009 the hall was booked by a group and could not be used as a polling station. As a result the polling station was transferred to St. Mary's Church Hall, Theydon Bois.

- **Buckhurst Hill**

The polling station at Roding Valley Centre was moved to St. Stephen's Church Hall because of a transfer of ownership.

- **Bobbingworth**

Representations had been received concerning the provision of a polling station in Bobbingworth. Because of previous difficulties in finding a suitable site within Bobbingworth, voters had been directed to a joint polling station in Moreton. It was subsequently suggested that the local church in Bobbingworth be used as a polling station. However there were only 215 voters registered for Bobbingworth, it was felt that for such a relatively small number of voters it was not correct to spend additional money on a separate polling station.

Spoilt Ballot Papers

- Votes rejected in the European election totalled 280.

Complaints and Queries received in the Elections Office

- The majority of calls made to the Elections Office were from electors complaining of not having received a poll card or not being on the electoral register. These queries recurred at every election and most were explained by voters losing their poll cards and forgetting to update their register entries at the appropriate time.

Count – Theydon Bois Village Hall (5 and 7 June 2009)

- It had been decided to hold the count in Theydon Bois Village Hall because of its location, car parking space and IT links.

- The Regional Returning Officer had stipulated that verification of the European ballot needed to be notified to him by 1p.m. on 5 June 2009. This task was completed by 11.20a.m. The count then proceeded to the 7 County Council electoral divisions commencing at 12.15p.m. and was followed by the District and parish by-election counts.

- The counting of the local ballot as part of the European Parliamentary Election had been directed by the Regional Returning Officer to commence at 4p.m. on Sunday 7 June 2009, and to be completed before 9p.m. The count was completed at 7p.m. and the result sent to the Regional Returning Officer shortly afterwards.

Meeting with Election Agents

Election agents attended a debriefing on 15 June 2009. The general response from those that attended, and others who expressed views by telephone or by email, was favourable.

However the following issues were raised:

(i) Party Logo

- There was a query about the faint imprint of one party logo on the ballot paper.

(ii) Election Results Screen

- An objection had been raised regarding a graphic showing the Epping Forest District Council and Essex County Council logos on a background with the European Union flag.

(iii) Counting of Individual Ballot Boxes

- An agent had asked that it be made clearer which ballot boxes were being counted on particular tables.

(iv) Car Parking at Theydon Bois Village Hall

- An agent had commented that those persons arriving by car after the European verification on 5 June 2009 had found problems in finding a parking space.

(v) Publication of Election Results

- An agent had identified a delay in the publication of election results at parish offices and other information centres.

(vi) Candidate's Returns

- An agent expressed concern about the constant changes to the expenses return which had to be completed by candidates. However this process followed the model provided by the Government, which was regularly altered.

(vii) Counting Arrangements - Timetable

- One group had asked for better information on the timing of individual counts or provision of a contact telephone number at which timings for individual electoral divisions or ward counts were obtained.

(viii) Counting in the Small Hall

- Agents had commented that it would help those in attendance to know exactly which counts were being conducted in the small hall and also where and when the announcements were being given as to the results.

(ix) Parking at Polling Stations

- Reference had been made to the difficulties which could occur when double yellow lines were along the kerbside outside polling stations. This could be explored with the Head of Environment and Street Scene.

Illegal Posting of Election Notices

- A number of complaints were received on polling day regarding affixing party election posters to traffic signs, lamp posts etc. A large number of these signs were removed on election day and the Highways Authority had done likewise.

The powers available for dealing with flyposting were as follows:

- Town and Country Planning Act 1990
- Highways Act 1980
- Clean Neighbourhoods and Environment Act 2005

It was noted that in removing the signs quickly, not having given notice, prosecutions or recovery of costs were difficult to obtain. The Panel was advised that more than one political party was involved in this practice. The Returning Officer's report was designed to be a public statement outlining that a repetition of this behaviour would lead to due process being followed. Prosecutions and recovery of costs may result in respect of the parties concerned.

Party Seals on Ballot Boxes

- One political party at recent elections had exercised its right to affix its own seal on ballot boxes immediately on the closure of the poll. This was a only exercisable by candidates, appointed electoral agents or appointed polling agents. In the 2009 election there were occasions where party workers had sought to affix seals on ballot boxes in polling stations which they were not entitled to enter. The rules stipulated that the candidate for the ward in question, the candidate's agent in that ward or an appointed polling agent for that polling station were the only ones who can exercise the right to affix seals. In one instance a Presiding Officer had challenged a party worker which led to an unnecessary difficulty when identification was sought.

- The Returning Officer informed the Panel that he was making representations to the Electoral Commission that in the latter's next guidance manual on the conduct of elections, those intending to enter polling stations for the purpose of fixing their seals to ballot boxes should do so only after identification had been shown.

Future Elections

- In 2010, the scheduled date for District Council elections (one third) was 6 May 2010. It was likely that May 2010, or before, there would be a general election and planning had started on the arrangements.
- The Returning Officer had already undertaken to hold the Parliamentary county on the same night as voting closed. This meant that a further look would need to be taken as potential counting centres and to securing necessary staffing.

RESOLVED:

That the Review of European, County, District and Parish Elections be noted.

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

The reports regarding Officer Delegation and Election Review were being put before the Overview and Scrutiny Committee.

9. FUTURE MEETINGS

The next meeting of the Panel was scheduled for Monday 14 September 2009 at 7.30p.m. and then on the following:

Monday 2 November 2009 at 7.30p.m.;
Monday 11 January 2010 at 7.30p.m.; and
Monday 22 March 2010 at 7.30p.m.

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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Constitution and Member Services Standing Panel			
Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
(1) Review of June 2009 Elections	Completed – June 2009 meeting		29th June 2009 14 th September 2 nd November 11 th January 2010 22 nd March
(2) Overview and Scrutiny Review (completion from last meeting of Panel) including Government White Paper on Empowerment	Partially completed at June 2009 meeting	Officers collating list of Council websites for Panel members to refer to and information on Council publicity activities to be circulated to members.	
(3) Planning applications – comments by Parish Councils	Completed – June 2009 meeting	Panel recommended that N Richardson monitor single storey rear extensions until March 2010.	
(4) Member Training Review	November 2009		
(5) Annual Review of Financial Regulations.	November 2009		
(6) Annual Review of Contract Standing Orders	January 2010		
(7) Annual Review of Officer Delegation	March 2010		

(8) Protocol on Civic Events	Awaiting re-draft of guidelines.		
(9) Review of Internal Audit Report - External Partner Organisations -	September 2009		
(10) Local Democracy – Review of Petitions Procedure and Electronic Systems, Duty to promote democracy and consequential changes to operational rules.	To be confirmed.	New item arising from the Panel meeting on 6 April 2009. A proposal has been put forward to a Parliamentary committee regarding electronic procedures. Timing dependant on Government Legislation.	

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Report to Constitution and Members Services Panel

Date of meeting: 14 September 2009

Subject: Overview and Scrutiny Review

Officer contact for further information: S Hill Ext 4249

Committee Secretary: M Jenkins Ext 4607



Recommendations/Decisions Required:

- (1) That members provide feedback to Officers on other authorities Scrutiny functions; and
- (2) That members determine any further steps they wish to take in the review

Report:

1. At the last meeting members considered the review of the OSC function and asked that officers provide a list of authorities which provide either different ways of operating their Scrutiny arrangements or communicating with the public. The list below are suggested authorities that members may wish to review prior to the meeting.
2. It is very apparent that there is no 'model' for scrutiny. Local operation of scrutiny varies to meet local circumstance and issues. There does seem to be a preference for the central 'management' committee with a number of Panels or Task and Finish groups, a model put in place some years ago here. Some authorities appoint 'Commissions' which fulfil the same function.
3. The Centre for Public Scrutiny has recently announced the winners of good scrutiny awards, which was a national competition. Officers have included links to some of the sites on the shortlist where they appear to provide different styles of scrutiny project success.
4. The list also provides links to 'local' authorities and includes different methods of engagement and publicity. Notes have been made against each site.

EFDC Scrutiny Page (as a comparison):

http://www.eppingforestdc.gov.uk/local_democracy/Scrutiny_home.asp

CfPs shortlisted Community Engagement Authorities for 2009-09-03

Bedford Borough Council:

http://www.bedford.gov.uk/council_and_democracy/overview_and_scrutiny.aspx

Notes: Site includes a handbook and the 'Scrutineer' newsletter

Birmingham City Council:

http://www.birmingham.gov.uk/GenerateContent?CONTENT_ITEM_ID=22172&CONTENT_ITEM_TYPE=0&MENU_ID=574

Notes: Press releases, Reports

Maidstone

http://www.digitalmaidstone.co.uk/your_council/overview_scrutiny.aspx

Notes: Public Review Suggestions, Webcasting, Community engagement

Cardiff

http://www.cardiff.gov.uk/content.asp?nav=2872%2C3250%2C4337&parent_directory_id=2865

Notes: No management committee, Unitary Authority

Suffolk County

<http://www.suffolk.gov.uk/CouncilAndDemocracy/AboutSCC/SpecialistSupportFunctions/ScrutinyAndMonitoring/Services/ScrutinyTeam/>

Notes: Recently commended on review carried out jointly with police authority on prostitution, newsletters

Essex CC

<http://www.essexcc.gov.uk/vip8/ecc/ECCWebsite/dis/guc.jsp?channelOid=14572&guideOid=14032&guideContentOid=14580>

Notes: Local County Council

Other 'Local' Authorities

Basildon

<http://www.basildon.gov.uk/index.aspx?articleid=2092>

Notes: Commission + Committees + task and finish panels, public request for scrutiny

Braintree

<http://www.braintree.gov.uk/Braintree/councildemocracy/Scrutiny.htm>

Notes: Local District, witness feedback and guidelines

Redbridge LB

http://www.redbridge.gov.uk/cms/council_democracy/scrutiny_home_page.aspx

Notes: Public requests, Q & A

Thurrock

<http://www.thurrock.gov.uk/democracy/scrutiny/>

Notes: Good website guidance, public call-in

5. Members are asked to consider these sites and discuss whether they wish officers to bring forward any further reports for consideration.

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Epping Forest District Council
Internal Audit Unit
Audit: Partnership Governance Arrangements
Client: Deputy Chief Executive

PRIVATE AND CONFIDENTIAL

EPHING FOREST DISTRICT COUNCIL

INTERNAL AUDIT REPORT No. 489

Subject: Partnership Governance Arrangements

Client: Deputy Chief Executive

Auditor: Brian Bassington

Date: 8th December 2008

**Signed
Auditor:**

Chief Auditor:

Distribution:

Full Report

Derek Macnab
Ian Willett
Chris Overend

Deputy Chief Executive
Assistant to the Chief Executive
Policy and Research Officer

Management Summary

Councillor Mrs D. Collins Portfolio Holder
Corporate Executive Forum

**Partnership Governance Arrangements
Report No. 489 issued December 2008
Management Summary**

1.0 Introduction

An audit of the arrangements in place for the governance of partnerships in which the Council has a role has been carried out as part of the approved Audit Plan for 2008/09.

The Audit Commission defines a partnership broadly as 'an agreement between two or more independent bodies to work collectively to achieve an objective'.

A failure to control and monitor such arrangements can result in poor value for money being achieved, ambiguity of responsibility and accountability, and poor public perception. Partnerships should be transparent and provide public information on their aims and achievements.

The Council is involved in a range of strategic and service based partnerships and action groups, with financial and other contributions provided by the Council. A 'Protocol on Partnerships and other External Organisations' has been included in the Council's Constitution since December 2005 and revisions were agreed in 2007/08.

The Protocol should be revised to further emphasise the expected governance arrangements within the written agreements, including the need to demonstrate linkages with the Council's strategic aims, the development of clear milestones or delivery dates, the action that should be taken should poor performance occur, and details of the methods used to engage with local people and other stakeholders. Reference should also be made to the requirements of the Council's Financial Regulations where appropriate (Appendix F, External Arrangements, Partnerships).

The key service based partnership for the Council is the Waste Management Partnership, both in the level of expenditure and possible damage to the Council's reputation should the partnership fail. This partnership is part of a formal contract and as such is monitored and controlled to a greater extent than others.

It appears that little formal evaluation is undertaken with partnerships generally, as much partnership activity is strategic in nature. This makes it difficult to evaluate the success or failure of partnerships, and whether the outcomes have been fully met or represent value for money. Systems should be developed to enable the effectiveness of partnerships to be evaluated where the Council has a substantial involvement in terms of financial or staff resources.

In general, similar standards of scrutiny and governance should be applied to protect the Council's interests where it is involved in partnerships, with some flexibility to reflect specific circumstances and the level of risk attached to the arrangements.

A Corporate register of all partnerships should be created, which could be linked to the register of appointments to outside bodies.

2.0 Sample Taken

All identified partnerships were reviewed.

3.0 Overall Rating

Satisfactory assurance, noting improvement areas identified.

4.0 Opinion

The partnerships the Council has been involved in up until now have been of a strategic nature and the management and monitoring applied has been of the level expected. The protocols have addressed the operational requirements of the partnership, but should now be expanded to make more explicit the linkages with the Council's key aims and objectives.

The inclusion of clear milestones or delivery dates, adherence to constitutional rules and the monitoring of achievement against the Council's strategic aims are all examples of the type of governance arrangements that should be developed in partnership working. With the existence of major service based partnerships, and the introduction of financial incentives achievable from the Local Area Agreement, the Authority should take the lead in determining the nature of governance arrangements required to obtain the maximum benefit from its involvement in partnerships.

5.0 Implications for Governance Statement

The Authority needs to ensure that value for money and beneficial outcomes are achieved from partnerships, and that all partnership processes are transparent and display public accountability.

**Epping Forest District Council
Internal Audit Unit
Audit: Partnership Governance Arrangements
Client: Deputy Chief Executive
Partnership Governance Arrangements
Report No. 489 issued December 2008
Implementation Schedule**

Report Reference	Priority	Agreed Action	Responsible Officer	Target Date
5.1	1	<p>Protocol The Council should review each partnership to ensure the requirements contained within the Terms of Agreement are included within the Partnership's agreement wording.</p> <p>Systems should be developed to enable the effectiveness of Partnerships to be evaluated where the Council has a substantial involvement in terms of financial or staff resources.</p> <p>The annual report format should be included in the constitution.</p>	Assistant to the Chief Executive	March 2009
5.8	2	<p>Essex Online Partnership Management should review annually the value for money provided to the Council from this Partnership and identify the benefits gained from continued membership.</p>	Assistant Director (ICT)	March 2009
6	2	<p>Corporate Register A Corporate register of all Partnerships should be created, which could be linked to the register of appointments to outside bodies. The register should record the amount of money and other resources invested in each Partnership.</p>	Assistant to the Chief Executive	March 2009

Key: Priority 1 = high
 2 = medium
 3 = low

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**PROTOCOL ON PARTNERSHIPS
AND OTHER EXTERNAL ORGANISATIONS**

**Adopted by Epping Forest District
Council on 13.12.05
Revised on 18.12.07**

Rev 3 (1.08)

PROTOCOL - PARTNERSHIPS AND EXTERNAL ORGANISATIONS

1. Purpose of Protocol

- 1.1 To provide a framework of advice for the conduct of members and officers when representing the Council on external partnerships and other organisations.
- 1.2 To provide specific guidelines on questions relating to:
 - (a) member and officer liabilities;
 - (b) indemnities;
 - (c) reporting back to the Council;
 - (d) annual reports; and
 - (e) training.
- 1.3 This protocol is limited to appointments made in connection with the Council's powers, duties and general activities. It does not apply to membership of outside organisations held on a personal basis (i.e., independently of the Council). In such cases the member or officer concerned has a personal responsibility to consider issues such as indemnities, potential conflicts of interest and declarations of interest (see paragraphs 6.4 and 6.5 of this protocol).

2. Council involvement with External Partnerships and Organisations

- 2.1 The Council is routinely invited to appoint representatives to external bodies. Such invitations usually arise in one of the following ways:
 - (a) by virtue of a statutory duty or other legal requirement;
 - (b) by virtue of a specific decision or policy adopted by the Council;
 - (c) by virtue of invitations deriving from the Council's community leadership/consultative role; and
 - (d) by virtue of professional contacts among officers or through liaison arrangements delegated to them.
- 2.2 This protocol is intended to regularise the arrangements operating in any such case.

3. Appointments - Members of the Council

- 3.1 Member appointments are usually consolidated in May each year at the Annual Council meeting. Other Council meetings sometimes deal with appointments, usually in relation to casual vacancies or new bodies. All bodies will be reviewed annually.
- 3.2 Member appointments are subject to separate protocols in the Council's Constitution covering:
 - (a) allocation of places between the political groups; and
 - (b) allocation of places on outside organisations to Portfolio Holders where Cabinet functions are directly involved.
- 3.3 Reference to those separate rules is necessary on all questions of appointment procedure. No appointment of a member to an outside body or partnership can be

Rev 3 (1.08)

made without a Council decision. In deciding to make any appointments, the Council will satisfy itself that this involvement is relevant for the power and duties of the Council or is otherwise desirable.

- 3.5 When taking up their appointments, Councillors will be provided with a copy of this protocol and past annual reports so that they are fully briefed on the organisation concerned.

4. Appointments - Officers of the Council

- 4.1 Officers serve on outside bodies in 3 main capacities:

- (a) when appointed by the Council, in lieu of a member representative or where both a member and an officer is desirable;

These appointments under 4.1 (a) above are subject to the same rules as applied to members.

- (b) by virtue of the post occupied or professional background/development requirements;

These are agreed by Heads of Service. For more junior positions, Heads of Service give approval, except where consultation with members or Management Board is desirable.

- (c) by virtue of a special invitation outside the normal terms of an officer's employment.

These appointments require approval by the Management Board and the Council in the case of Senior Officers. Junior staff are dealt with by Heads of Service. The Council's staffing policies stipulate the correct method of making these appointments.

5. Appointments – Non-Councillors

- 5.1 Sometimes the Council appoints representatives who are neither Councillors nor officers. Such representatives are subject to the provisions of this protocol except in so far as they may not be able to report back in the manner prescribed for elected members and officers. In the latter circumstances, they should contact the relevant Head of Service or the Portfolio Holder concerned for advice.

6. Representatives on Outside Partnerships and Organisations - Policy Aspects

- 6.1 Where any external organisations are involved in any matter which directly or indirectly affects the policies, responsibilities and powers of the Council, representatives must be aware at all times that the Council's policy is paramount. No undertakings should be given which in any way compromise the legal requirements applying to Council operations or which compromise the policy of the Authority.
- 6.2 Representatives should report back to the Council on any matters affecting the Council and seek information with which to advise an external organisation or partnership. In reporting back, a representative may wish to request the relevant decision maker (e.g. the Cabinet or a Portfolio Holder) to consider any recommendations from the organisation concerned. No undertakings should be given on the outcome.

6.3 Some external partnerships have a basis in statutory powers whereby a number of partner bodies work together to achieve joint objectives. Although representatives are already able to participate in the proceedings of such partnerships, they should bear in mind at all times:

- (a) that the Council may have established policies and procedures which may be affected by those decisions; and
- (b) that implementation of partnership objectives may still require decisions by the Council in terms of staffing, finance and other resourcing matters.

6.4 In relation to Trusts, it is likely that if a Council representative accepts a position of trustee, this will create a legal duty to work for objectives of the Trust instead of the Council. In such circumstances serving Councillors acting as representatives must be mindful of conflicts of interest, which may be created, and act in accordance with the Council's code of conduct. (See Section 12 below.)

7. Representatives on Outside Organisations and Partnerships - Insurance and Indemnities

7.1 Local Authorities are unable to provide all embracing indemnities or incur costs for all activities on all outside bodies. The Council's insurers can provide an indemnity to individual members and employees in limited circumstances only.

7.2 The circumstances in which the Council's insurers (currently Zurich) advise an indemnity can be provided are:

- (a) where an individual acts solely on behalf of his or her authority, within the terms of reference laid down by the authority, and solely in pursuance of the local authority's statutory powers;
- (b) where the individual acts solely in an advisory capacity in connection with the local authority's functions;
- (c) where the individual occupies an observer role on the board or committee of an outside organisation, representing the local authority's interests (rather than in a decision-making capacity);
- (d) where the individual acts on behalf of a joint committee established by two or more local authorities.

7.3 The authority is not able to provide an indemnity in respect of those activities where the individual acts:

- (a) solely on behalf of an outside body; or
- (b) outside his or her delegated powers; or
- (c) outside the authority's statutory powers.

7.4 Members and officers of the Council can therefore participate on outside organisations as observers or facilitators in the exchange of views or information as an extension of their position as local authority Councillors, but they may not make any decisions which are binding on the local authority.

7.5 Members are also not indemnified if they serve in an executive capacity on an outside body. A Member's status as a local authority councillor does not prevent the Member serving on an outside body in a personal capacity (i.e. not as a Council representative), provided that this does not create a conflict with his or her duties as a local authority member. Outside bodies must provide cover in either of these situations and local authority Members and employees should ensure that adequate cover for them is in place before agreeing to being appointed.

7.6 The same principles apply to officers as are set out in paragraph 6.4 above.

8. Written Agreements

8.1 The Local Government Association, in conjunction with the National Council for Voluntary Organisations, has produced a Code of Practice, a key recommendation of which is a formal written agreement between external organisations and the Council. This protocol therefore requires such an agreement to be compiled in each case covering the following:

- (a) the relationship between the local authority and the organisation e.g. funder, partner;
- (b) the formal role and responsibilities of the authority, employee or Member, e.g. director, trustee, adviser, observer;
- (c) a general statement regarding what is expected from the local authority Member or employee;
- (d) the responsibilities and liabilities of members where board membership of the outside organisation is involved in terms of legislation, regulation and accounting standards;
- (e) confirmation that, where the outside organisation is a charity, a Member or employee who is acting as a trustee must act in the interests of the charity rather than the authority when serving in that capacity;
- (f) the role of observers, including receipt or withholding of confidential papers, attendance or exclusion from meetings and any speaking or voting rights;
- (g) the arrangements made by the outside organisation to indemnify their members against the risk of personal liability where board or trustee membership is involved; and
- (h) the arrangements made by the authority to cover their Members and employees whilst serving on outside organisations.

8.2 The Council will maintain up-to-date records of the approved involvement of the authority and its members and employees who serve on outside organisations including:

- (a) regular reviews of all placements and categorisations;
- (b) the establishment of a register to be used as the basis for central record;

- (c) specific terms of reference being given to each individual involved with an outside body;
- (d) confirmation of the extent to which the authority's indemnity does apply, emphasising the consequences for the individual if his or her terms of reference are exceeded;
- (e) a clear statement that the authority's indemnity will not be available where the individual is:
 - a director on the board of a limited company; or
 - a trustee of a trust or charity; or
 - a voting member of the management committee of an unincorporated association;
 and is not exercising a local authority function;
- (f) the position of an individual member on the Board or Committee of a grant-aided organisation to be amended to observer only; and
- (g) written confirmation to all Members and employees that personal or social memberships (i.e. those not connected with the Council) are not covered by the authority's indemnity.

8.3 A form of agreement document is attached as Appendix 2.

9. Representatives on External Organisations/Partnerships - Directorships

9.1 Memberships of some organisations confer executive responsibilities on Council representatives. Cases in point are trustees of charities, directorships and membership of other statutory authorities.

9.2 There is a general presumption against such positions being held by representatives of this Council. This reflects conflicts of interest which can arise between the aims and objectives of the Council and those of the organisation concerned.

9.3 In cases where representatives hold such positions they must ensure:

- (a) that they have been duly appointed by the Council (in the case of members) or the Management Board (in the case of officers);
- (b) that their duties on behalf of the organisation do not conflict with their role as Councillor or officer; and
- (c) that they maintain a clear distinction of responsibilities by declaring interests and not participating in Council meetings or discussions where there is a direct conflict of interest as defined by the Code of Conduct.

9.4 Representatives should seek timely advice on their position under the Code of Conduct for Members and Officers and any advice issued by the Standards Board for England and the Epping Forest District Standards Committee.

10. Reporting Arrangements - Members of the Council

- 10.1 A prime responsibility for members and non members who serve on outside organisations and partnerships is to keep the Authority informed of the work of those bodies. Such reports can also provide useful information by which the Council can judge whether continued involvement is of benefit to the Council. The Council will seek to receive copies of minutes of organisations but the reports by the representative may still be required.
- 10.2 Such reports should cover:
- (a) reports to the Cabinet on specific matters actually or potentially affecting the Council or on urgent matters; and
 - (b) annual reports (even if these are produced separately by the organisation concerned).
- 10.3 Reports under 10.2(b) should be made in cases where an organisation does not produce its own annual report. A prescribed format (attached Appendix 3) should be used. A relevant timescale will be prescribed for this leading to the Annual Council meeting each year. Copies of these reports will be provided to all political groups on the Council.
- 10.4 Where a representative is not a Councillor, reports under 9.2(a) above should be directed to the Head of Service concerned or the appropriate portfolio holder.

11. Reporting Arrangements - Officers of the Council

- 11.1 Officers serving on outside organisations or partnerships as representatives of the Council shall keep their line manager(s) or Head of Service informed about the work of the body concerned. Heads of Service shall determine whether any information should be referred to the Management Board/Portfolio Holder.
- 11.2 Where officers serve on such bodies either as Council representatives or independently they must include those appointments in their declarations of interest under the Officer Code of Conduct.

12. Effect of the Code of Conduct – Elected Members

- 12.1 The Council's Code of Conduct states that a Councillor has a personal interest in any business of the Authority where it relates to or is likely to affect any external body to which they are appointed or nominated by the Council as its representative. However, that interest need only be disclosed at a meeting if the Councillor speaks on the matter concerned.
- 12.2 Such personal interests are prejudicial interests if they affect the financial position of any organisation on which they are represented or relate to the granting of any consent, approval, licence or registration of such a body. In those two circumstances the Councillor must declare that interest and leave any meeting for the duration of the discussion. Questions of grant aid, planning consent licensing are cases where elected Councillors need to exercise care not to breach the Code.

13. Review of Protocol

- 13.1 The protocol shall be subject to review on a regular basis or according to specific circumstances.

LIST OF APPENDICES

- | | | |
|-------------------|----------|--|
| Appendix 1 | - | Statement of Indemnities/Insurance in respect of outside bodies |
| Appendix 2 | - | Agreement Document |
| Appendix 3 | - | Annual Report Format |

PROTOCOL ON PARTNERSHIPS AND OTHER EXTERNAL ORGANISATIONS

APPENDIX 1

INSURANCE AND INDEMNITY STATEMENT

- 1. Circumstances in which indemnities that can be provided by the Council's Insurers in respect of member or officer involvement in external partnerships and organisations:**
 - (a) Where an individual acts solely on behalf of his or her authority, within the terms of reference laid down by the authority, and solely in pursuance of the local authority's statutory powers;
 - (b) Where the individual acts solely in an advisory capacity in connection with the local authority's functions;
 - (c) Where the individual occupies an observer role on the board or committee of an outside organisation, representing the local authority's interests (rather than in a decision-making capacity);
 - (d) Where the individual acts on behalf of a joint committee established by two or more local authorities.
- 2. Activities for which the Council is unable to provide indemnities**

Activities where the individual member or officer acts:

 - (a) solely on behalf of an outside body; or
 - (b) outside his or her delegated powers; or
 - (c) outside the authority's statutory powers.

Notes:

1. This statement derives from the indemnity provisions and exclusions from the Council's Public Liability Policy held with Zurich Municipal.
2. This statement will be reproduced as part of the agreement with each outside organisation. (See Appendix 2)

**PROTOCOL ON PARTNERSHIPS
AND OTHER EXTERNAL ORGANISATIONS**

APPENDIX 2

**STANDARD FORM OF AGREEMENT
BETWEEN EPPING FOREST DISTRICT COUNCIL AND _____**

A. STATEMENT OF PARTICULARS _____

NAME OF ORGANISATION/ PARTNERSHIP (1)	
ADDRESS FOR CORRESPONDENCE (2)	
E-Mail (3)	
Telephone No (4)	
Fax No (5)	
AIMS AND OBJECTIVES OF ORGANISATION (Supply copy of Constitution, governing instrument or trust deed) (6)	
MEETING/AGENDA ARRANGEMENTS (Please describe) (7)	
WHAT STATUS/ROLE WILL THE COUNCIL REPRESENTATIVE FULFIL? (viz observer, voting committee member, trustee, director etc) (Please state any restrictions including any on confidential information) (8)	

DOES PUBLIC LIABILITY INSURANCE EXIST FOR THE WORK OF THE ORGANISATION? (Give name of insurer and policy number) (9)	
IS THE ORGANISATION A REGISTERED CHARITY? (Give registration number) (10)	

B. FINANCIAL INFORMATION

Does this organisation receive grant aid or similar financial support from Epping Forest District Council? (Give details) (11)	
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C. STATEMENT OF PARTICULARS - EPPING FOREST DISTRICT COUNCIL

REPRESENTATIVES OF EPPING FOREST DISTRICT COUNCIL	
STATUS (OFFICER/MEMBER) (12)	
TERM OF APPOINTMENT (13)	
CONTACT DETAILS (Address, telephone, fax, e-mail) (14)	

D. TERMS OF AGREEMENT - [Organisation]

The _____ agrees to:

- (a) provide details of all relevant documentation and access to all meetings to the representatives of Epping Forest District Council;
- (b) provide details of meeting venues, times of meetings;
- (c) acknowledge that no Council representative may make decisions or give commitment on behalf of the Council in respect of any matter affecting the organisation;
- (d) acknowledge that no Council representative may commit the Council to any action or policy affecting the organisation;
- (e) acknowledge that a Council representative may be required to declare a personal interest in terms of his or her representation on the organisation and in some circumstances, may have a prejudicial interest which will require withdrawal from any District Council body considering a matter concerning that organisation;
- (f) note that Council representatives will only be indemnified as set out in the enclosed statement;
- (g) assist the Council representative in submitting regular reports to Epping Forest District Council on matters affecting the organisation;
- (h) agrees to provide separate copies of agenda, minutes, reports, statements of accounts, annual reports to Epping Forest District Council in addition to those provided under 1(a) above;
- (i) where appropriate, agrees to the attendance at meetings of nominated deputies when the representative is absent.

E. TERMS OF AGREEMENT - EPPING FOREST DISTRICT COUNCIL

The Epping Forest District Council agrees as follows:

- (a) to appoint representatives and deputy representatives in accordance with the organisation's requirements;
- (b) to keep the organisation informed of relevant Council decisions via its representative(s);
- (c) to indemnify its representatives but only in accordance with the statement attached;
- (d) that it expects Council representatives to attend meetings and participate in any training deemed necessary by the organisation;
- (e) to advise representatives on any matters relating to interests as they arise.

F. SIGNATURES

- (a) For _____ [Organisation]

On behalf of the above-named organisation, I agree to the conditions attaching to the appointment of representative(s) by Epping Forest District Council

Signed _____
Name _____
Position _____
Date _____

(b) For Epping Forest District Council

On behalf of Epping Forest District Council, I confirm the conditions and undertakings attaching to Council representation on the above-named organisation.

Signed _____
Name _____
Position _____
Date _____