

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Constitution and Members Services **Date:** Tuesday, 15 February 2011
Scrutiny Standing Panel

Place: Committee Room 1 **Time:** 7.30 - 9.00 pm

Members Present: Mrs M McEwen (Chairman), K Chana (Vice-Chairman), Ms C Edwards, J Markham, J Philip, Mrs M Sartin, D Stallan, Mrs J Sutcliffe, Mrs J H Whitehouse and Mrs C Pond

Other Councillors:

Apologies: R Cohen and Ms J Hedges

Officers Present: I Willett (Assistant to the Chief Executive), S G Hill (Senior Democratic Services Officer) and M Jenkins (Democratic Services Assistant)

37. NOTES OF THE LAST MEETING

RESOLVED:

That the notes of the last meeting of the Panel held on 16 December 2010 be agreed, subject to an amendment regarding Item 30 Terms of Reference/Work Programme (2) (g), that water did not replace coffee but hot water would be provided at meetings for making tea and coffee.

38. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was noted that Councillor Mrs C Pond was a substitute for Councillor R Cohen.

39. DECLARATIONS OF INTERESTS

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

40. TERMS OF REFERENCE/WORK PROGRAMME

(a) Terms of Reference

The Panel's Terms of Reference were noted.

(b) Work Programme

(i) Item 14 (Planning/Landowner Roles) – This item needed further clarification. It would need carrying over to next year's programme.

(ii) Item 15 (Referendum on an Elected Mayor) – This would be submitted to the next Panel meeting.

41. APPOINTMENTS AT ANNUAL COUNCIL

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The Panel received a report from Mr S Hill, Senior Democratic Services Officer, regarding Appointments at Annual Council.

At the Panel meeting held on 16 December 2010 members had expressed their initial views on how the process of the annual meeting should be improved. The report set out the response of the Panel to the request made regarding the process of the annual Council meeting and addressed both issues that required changes to the Constitution and those of a procedural nature.

Proposals for the Creation of an Appointments Panel

Traditionally a meeting of the Group Leaders had been called a few days after the May elections, once pro-rata calculations were carried out. The Panel had proposed the creation of an Appointment Panel, meeting on a pre-arranged date between the Elections and the Annual or next Council meeting. The Panel would have the following characteristics:

- (a) timetabled meetings held between the election and Annual Council
- (b) receive nominations and recommend appointments to the Annual Council
- (c) its Terms of reference including all appointments made by Council at the Annual Meeting, and receive those being made by the Leader
- (d) as a recommending Panel, it would not be subject to pro-rata but its membership would include representation from all political groups and an open invitation for un-affiliated members to attend and make proposals
- (e) group representatives to have a mandate from their group to make appointments and come armed with relevant nominations
- (f) clear principles and reports from officers circulated in advance of the elections, with only seats breakdown circulated afterwards
- (g) clear mandatory timetable from officers for Council report avoiding the recent practice of tabling nominations at the annual meeting

Protections were interwoven into the proposals for minority groups and unaffiliated members.

It was recommended that the existing protocol on the Allocation of Chairmanships and Vice Chairmanships and Outside Organisations should be suspended for the period of one year, and then subsequently reviewed following operational experience.

Changes to the Ceremonial Element of Annual Council

Analysis over the last 10 years showed that the Annual Meeting length had remained fairly constant with appointment requirements at the Annual Meeting had declined over the years. There had been representations that there was also a wish to improve the ceremonial aspects.

It was felt that it was essential that all candidates for Chairman and Vice Chairman should be involved in the planning of the meeting, and attend a rehearsal on the afternoon of the meeting. Additionally, the process of signing the declarations of acceptance of office should be made at a desk in front of members in the chamber.

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Review of Constitution of Political Groups

In response to a request from Panel members, it was suggested that some changes to the way political groups were formerly constituted and members join these groups. The changes allowed groups to formally reconstitute themselves each year by notice signed by two (or more) members of the authority asking to be treated as a political group. Other group members would then sign an individual form. All forms would be lodged with the proper officer by the date of the Appointment Panel.

Appointment of Vice Chairman of the Council

Members had requested a review of the current protocol for the appointment of a new Vice Chairman of the Council each year.

The current system of appointment required any nomination for the office of the Vice Chairman to be supported by 12 councillors drawn from at least two political groups. It was recommended that the principle of having cross party support for such an appointment was still appropriate. Therefore no changes were suggested, but nominations should be settled by the date of the Appointment Panel.

Review

It was suggested that these new arrangements should be reviewed by the Panel after the period of one year in the light of operational experience.

RECOMMENDED:

(1) That a report be made to the Overview and Scrutiny Committee and Council recommending:

(a) the introduction of an Appointments Panel;

(b) the approval of the terms of reference of the Appointments Panel as set out at Annex 1;

(c) the agreement of the following dates for the Appointments Panel for 2011:

Thursday 12 May 2011 and Tuesday 17 May 2011 (Provisional)

(d) group nominations to be made to the Panel in accordance with the Terms of Reference subject to the post-election receipt of a notice made under Regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990 of the proper constitution of a political group under the Local Government and Housing Act 1989;

(e) that to allow the envisaged Appointments Panel to make recommendations to Annual Council on all appointments, the operation of the protocol on the Allocation of Chairmanships and Vice-Chairmanships and Outside Organisations (except the provision of pro-rata for Chairman and Vice Chairman positions) be suspended for the period of one year and then reviewed;

(f) that the Assistant to the Chief Executive ensure the distribution of advice to all Panel members, Group Leaders and non-affiliated members on

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pro-rata requirements and details of all Committee Places, Outside Organisations appointments in advance of the electoral period and provide pro-rata allocations immediately following the elections;

(g) the introduction of the following new arrangements for the Annual Council Meeting;

(i) That all candidates for the positions of Council Chairman and Vice-Chairman be involved in planning the Annual Meeting;

(ii) a rehearsal for all members and officers involved in organising that meeting;

(iii) declarations of acceptance of office to be made during the Annual Meeting at a desk in the well of the Chamber for both new and elected members; and

(iv) an earlier start time of 7.00p.m. for the Annual Meeting;

(v) to agree in principle that supplementary tabled schedules of nominations should not be tabled at the Annual Council meeting and that a deadline for nominations be set to ensure that they are made in advance of the Appointments Panel.

(h) that for the purposes of introducing a new system of Group constitution and membership signing this year, new forms under Regulation 8 and 9 of the Local Government (Committees and Political Groups) regulations 1990 be developed to allow individual members to sign to join a political group for introduction from May 2011;

(i) that no changes be made to the Vice-Chairman appointment process contained in Article 5 of the Constitution save all nominations to be notified by Group Leaders to the Appointments Panel by the date of their meeting; and

(j) that the operation of these new arrangements be reviewed after one year.

42. STATUTORY OFFICERS - PROTOCOLS

The Panel received a report from Mr I Willett, Assistant to the Chief Executive, regarding Statutory Officer – Protocols.

The Panel, previously, had considered a report on draft protocols for the three Statutory Officers, namely: Head of Paid Service (HOPS), Monitoring Officer (MO) and Chief Finance Officer (CFO). Members had asked for consideration to incorporate within each protocol, details of how those functions would be carried out in the event that the designated officers had a conflict of interest which ruled them out of involvement.

The arrangements for Deputies was as follows:

(a) HOPS – The holder would nominate a Director to carry out the function of the Head of paid Service in the event of his/her absence.

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(b) MO – The Monitoring Officer had an appointed Deputy who undertook those duties insofar as this did not involve detailed legal advice, in this case specialist legal advice would be sought.

(c) CFO – There was a deputy Chief Finance Officer who undertook the duties of the CFO.

It had been raised as to how “perceived” or actual conflicts of interest should be dealt with in relation to the Statutory Officers. This was discussed by the Officer’s Corporate Governance Group (CGG). The suggested proposals were as follows:

(i) That concerns should be raised either with HOPS or with the statutory officer concerned with a requirement for the question to be discussed and, if necessary, advice from CGG taken. However, the question of whether a conflict of interest existed was solely a matter for the statutory officer concerned.

In the event that the concerns centred on HOPS, it was recommended that concerns should be raised with that officer directly or with the Monitoring Officer. Advice would then follow if necessary, involving CGG.

It was felt that it was undesirable to raise concerns at meetings, these should be discussed in advance of meetings.

Budgets

The members raised further questions about budgets. CGG advised that these officers did not have dedicated budgets specifying for those functions. Each designated officer was of Director status, with access to other budgets for the Directorate.

The Panel indicated that they wished to review these protocols every two years.

RESOLVED:

That, subject to review of the protocol concerning the Head of Paid Service and the manner in which any actual or perceived conflict of interest is to be dealt with, in that case, a report be submitted to the Overview and Scrutiny Committee to the Council recommending that the Protocols be adopted.

43. COUNCILLOR ACCOUNTABILITY STATEMENTS

The Panel received a report from Mr I Willett, Assistant to the Chief Executive, regarding Councillor Accountability Statements.

At the Council meeting on 20 April 2010 a resolution was adopted to the effect that the Overview and Scrutiny Committee was asked to refer the Member Role Accountability Statements to the Constitution and Member Services Scrutiny Standing Panel, with a view to recommendations being made for their adoption after consultation with the Remuneration Panel and the Standards Committee as appropriate.

This resolution was referred for consideration by this Panel at the Overview and Scrutiny Committee meeting on 12 July 2010. Draft statements were considered at the Panel meeting on 9 November 2010 and changes requested.

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A statement in respect of Deputy Portfolio Holders had already been recommended to the Council, and was adopted in November 2010. It was recommended that due to the limited life of the current standards regime, that the statements relating to the Standards Committee should be deferred. It was recommended that officers prepare statements in respect of that Committee for further consideration by the latter.

RESOLVED:

- (1) That the Councillor Accountability Statements be agreed subject to:
 - (a) inclusion of reference to “Residents” under Contact Section of relevant statement;
 - (b) addition of the words “and decision making” under “Representative Role” in the statement for members of the Council; and
- (2) Substitution of references to “Executive” by “Cabinet” in all statements.

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

The following reports would be submitted to the next Overview and Scrutiny Committee:

- (a) Appointments at Annual Council;
- (b) Statutory Officers - Protocols; and
- (c) Councillor Accountability Statements

45. FUTURE MEETINGS

It was noted that the next meeting of the Panel would be on 17 March 2011.

CHAIRMAN