

Scrutiny Standing Panel Agenda



Constitution and Members Services Scrutiny Standing Panel Thursday, 30th June, 2011

Place: Committee Room 1

Time: 7.00 pm

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

Members:

Councillors D Stallan (Chairman), D C Johnson (Vice-Chairman), R Cohen, J Markham, Mrs M McEwen, R Morgan, J Philip, B Rolfe, Mrs M Sartin, Ms S Watson and Mrs J H Whitehouse

1. APOLOGIES FOR ABSENCE

2. NOTES OF THE LAST MEETING (Pages 3 - 8)

To agree the notes of the last meeting of the Panel held on 17 March 2011.

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. REFERENDUM AND ELECTIONS 5 MAY 2011 (Pages 13 - 20)

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

7. COMPLAINTS PANEL - LIMITS OF JURISDICTION (Pages 21 - 24)

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

8. SUBSTITUTIONS AT MEETINGS (Pages 25 - 26)

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

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. PROVISIONAL DATES FOR PANEL MEETINGS

At the last meeting of the Panel, proposed dates for Panel meetings in 2011/12 were noted, they were:

30 August;
22 November; and
28 February 2012

However, since that time it was found that these dates were not compatible with the schedule of Overview and Scrutiny Committee meetings. Therefore officers have booked new meeting dates as shown below:

27 July;
8 November; and
20 February 2012

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Constitution and Members Services **Date:** Thursday, 17 March 2011
Scrutiny Standing Panel

Place: Committee Room 1, Civic Offices, **Time:** 7.30 - 9.35 pm
High Street, Epping

Members Present: Mrs M McEwen (Chairman), K Chana (Vice-Chairman), W Breare-Hall, R Cohen, J Philip, Mrs M Sartin, D Stallan, Mrs J Sutcliffe and Mrs J H Whitehouse

Other Councillors:

Apologies: Ms C Edwards and Ms J Hedges

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

46. NOTES OF THE LAST MEETING

RESOLVED:

That the notes of the last meeting of the Panel held on 15 February 2011 be agreed subject to an amendment to Minute 43 (Councillor Accountability Statements) to add the words "Standards Committee" after "that" on the last line of the preamble.

47. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

Noted that Councillor W Breare-Hall was a substitute for Councillor Ms C Edwards.

48. DECLARATIONS OF INTERESTS

There were no declarations of interest made pursuant to the Member's Code of Conduct.

49. TERMS OF REFERENCE/WORK PROGRAMME

Item 16 of the Work Programme – Supply of hot water for making tea and coffee to meetings held in Committee Rooms 1 and 2, was being followed up by Mr I Willett with the Superintendants.

50. MEMBER TRAINING REVIEW

The Panel received a report from Mr I Willett, Assistant to the Chief Executive, regarding Member Training 2011/12.

The report allowed members to carry out a forward review of member training for 2012/13. The report also enabled the Panel to indicate other training which could be added to the Member Training Programme. There was an available budget of £6,500

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for 2012/13 assisting with commissioning more specialist courses with external trainers.

(a) ITrain/Modern Councillor

ITrain was an on-line training initiative for individual learning by computer which had been developed by the Essex HR Partnership with a provider named Learning Pool. The programme was being developed and current courses available which were directly relevant to the members, were as follows:

- (i) Dealing with email stress;
- (ii) Managing priorities;
- (iii) Health and Safety introduction;
- (iv) Fraud awareness;
- (v) Data protection for beginners;
- (vi) Introduction to ICT; and
- (vii) GCSX Security – introduction

Modern Councillor was a commercial package available for the Council to purchase. There were specialist modules within the product, one of which was Local Government. It was available for subscribers at an annual price of £1,000 for up to 100 users. Therefore it was possible to accommodate all members of the Council, access was similar to ITrain. Example of the local government module courses were:

- (i) Equality and diversity;
- (ii) Charing meetings;
- (iii) Code of Conduct;
- (iv) Waste management;
- (v) Your role as Councillor;
- (vi) Public Speaking;
- (vii) Data Protection; and
- (viii) Overview and Scrutiny

(b) Officer Training Programme

The officer training programme was being developed for next year. It was considered where the subject matter was suitable for both members and officers, there was no reason why members should not join the sessions. It was felt that finance training should cover the Housing Revenue Account. It was noted that members booking should ensure that they attend, as missing a course took places away from others.

(c) Past Courses

Examples of other courses were provided, which had found support in previous years. Members felt that Awareness Sessions were very useful. An awareness session was needed on housing, tiers of local government and their responsibilities, courses on public speaking (also felt needed for officers), S106 agreements were also favoured.

(d) Other Ideas

It was advised that a company had circulated details of modules of member training. They were as follows:

- (i) Wardwork, Casework and Surgeries;
- (ii) Member/Officer Relationships;

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- (iii) Partnerships in Practice; and
- (iv) A Councillor, Who? Me?

Members supported (iii) Partnerships in Practice. They also suggested a basic guide to Overview and Scrutiny, decision making, where recommendations were referred to. It was felt that some training could be condensed from half day to perhaps quarter of an hour.

It was suggested that officers who had involvement with various functions and organisations would be useful facilitators of courses or workshops.

Members discussed the Councillor Development Programme 2011/12 Prospectus. It was felt that Course No M7 Development Control and Planning should be webcast. It was noted that Course No M5 Code of Conduct was being scaled down in the light of recent legislation. These two courses were being held on Saturdays.

The induction process would include clarification on service areas, plus tours of the district.

The new updated prospectus would be circulated in the Bulletin.

There was concern about the degrees to which all members committed themselves to training, both in new subjects and to keeping themselves up to date on courses attended previously. It was proposed that the following measures designed to demonstrate those who regularly undertook training and those who had not:

- (a) from 2011/12 – publication on the website of training courses undertaken by all members; and
- (b) clearer listing of these courses indicated as “mandatory” focussing particularly on the regulatory functions of the Council and the personal responsibilities of councillors.

It was suggested that attendance at past training courses should be circulated to all councillors so that:

- (i) they can check for any gaps in their training record; and
- (ii) they can assess the need for refresher training.

RECOMMENDED:

- (1) That the Member Training 2011/12 draft programme be noted;
- (2) That the following additional courses be added/publicised in the programme:
 - (a) e-learning (ITrain);
 - (b) joint courses with officers;
 - (c) previous courses;
 - (d) member preferences from the IDEA study in 2010; and

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- (e) publication on the website of training undertaken by all members from 2011/12;
 - (f) attendance at past training courses to be circulated to all members;
 - (g) member comments via the Bulletin; and
- (3) That a consultation on the revised programme be carried out via the Bulletin.

51. CONTRACT STANDING ORDERS

The Panel received a report from Mr I Willett, Assistant to the Chief Executive, regarding the Review of Contract Standing Orders.

The report outlined the annual review of Contract Standing Orders which was conducted by a cross-directorate officer working party.

(a) Review of Contract Standing Orders

The appendix to the report set out detailed changes to Contract Standing Orders arising from this year's review. None of the changes proposed represented fundamental differences with the version which had been in use for a number of years. The Panel's attention was drawn to the more significant proposals namely:

- (i) provision for tender acceptance terms, agreed in advance to avoid the need for the Cabinet or a Portfolio Holder to accept tenders;
- (ii) introduction of a 10% tolerance when comparing pre-quotation estimates with the value of quotations received in determining whether a Portfolio Holder needed to accept the lowest tender;
- (iii) transfer of responsibility for approving ad hoc tendering lists from Portfolio Holders to Chief Officers, maintaining confidentiality; and
- (iv) more controls on sub-contracting by main contractors.

Following approval from the Panel, the report's recommendations would be submitted to the Overview and Scrutiny Committee and the Council.

(b) Guidance and Training for Staff Engaged in Procurement

The review of Contract Standing Orders had been accompanied by the usual consultation with directorates. It was felt that improved guidance on procurement was required. The Essex Procurement Hub was available to the Council but there remained some lack of clarity as to how Contract Standing Orders related to that system. A flowchart was being drafted which would be an operational document, guiding procurement officers through the steps and choices in the process. It would also be used as a training aid.

(c) Future Reviews of Contract Standing Orders and Financial Regulations

Reviews of Contract Standing Orders and Financial Regulations were currently carried out once a year. In the case of Financial Regulations, very few changes had arisen in recent years. For Contract Standing Orders there had been a number of

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changes but this trend had been counter productive in some ways because the various changes have merely served to require ore clarification with relevant staff.

The officer group recommended that reviews of Financial Regulations and Contract Standing Orders should be in alternate years, with the next review of Contract Standing Orders taking place in 2012/13 and Financial Regulations during 2011/12. This would provide more stable rules and give greater weight to training and guidance as the means of dealing with problems. It was noted that procurement via Contract Standing Orders would increasingly be secondary to use of the Essex Procurement Hub and the Council should not need to review these procedures so often.

RECOMMENDED:

That a report be submitted to the Overview and Scrutiny Committee and the Council recommending:

- (a) that the schedule of amendments to Contract Standing Orders be approved; and
- (b) that Contract Standing Orders and Financial Regulations be reviewed in alternate years as follows:
 - (i) 2011/12 Financial Regulations; and
 - (ii) 2012/13 Contract Standing Orders

52. OFFICER DELEGATION - 2010/11 Review

The Panel received a report from Mr I Willett, Assistant to the Chief Executive, regarding Officer Delegation – 2010/11 Review.

Each year a cross Directorate Working Party of officers carried out a review of Financial Regulations, Contract Standing Orders and Officer Delegation. These reviews were designed to keep these documents up-to-date and to reflect current statutory requirements and operational needs. The report brought forward updates to the delegation schedule, including those which had already been approved by the Council during the last 12 months.

Proposed Changes

The proposed changes were to delegation of Council functions and Executive functions. The Panel's attention was drawn to the format for the new officer delegations in respect of the Planning Directorate. This format dealt with different functions of the directorate's work like "Core of the Environment" and then set out the legislation and details. This was considered more user friendly for the public, officers and members and made updating the schedules easier.

The Panel recommended the changes to the Overview and Scrutiny Committee and the Council, those proposals relating to executive functions would be submitted to the Leader of the Council for approval.

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RECOMMENDED:

- (1) That a report be submitted to the Overview and Scrutiny Committee, and the Council, recommending that the schedule of changes to and new Council delegation be approved;
- (2) That the Schedules of Executive Delegations be recommended to the Overview and Scrutiny Committee and leader of the Council for approval by the latter;
- (3) That the revised schedule be incorporated in the Constitution once the approval of the Council and the Leader is given; and
- (4) That the Schedules of Delegation be re-configured on a Directorate basis in future; and
- (5) That the Overview and Scrutiny Committee be asked to review planning delegation in respect of householder applications and further clarification of the previous decision of the District Development Control Committee be included in the Panel's report.

53. REFERENDUM FOR AN ELECTED MAYOR

The Panel received an information pack "Petitioning for an Elected Mayor" from Mr I Willett, Assistant to the Chief Executive. The Panel had requested an information report on the process for petitioning for and polling for an Elected Mayor. It was advised that there was a petition for an Elected mayor within the district currently.

RESOLVED:

That the information pack "Petitioning for an Elected Mayor" be noted.

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

The following reports were being put before the forthcoming Overview and Scrutiny Committee on 11 April 2011:

- (a) Member Training 2011/12;
- (b) Officer Delegation – 2010/11 Review; and
- (c) Review of Contract Standing Orders

55. FUTURE MEETINGS

This was the last Panel meeting of the Council year. The Chairman acknowledged that the Panel had progressed through an enormous amount of work, requiring two additional meetings. She thanked the Panel members and officers for their work over the last year.

CHAIRMAN

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 D Stallan

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**Constitution and Member Services Standing Panel 2011/12
(Chairman – Cllr D Stellan)**

Item	Report Deadline/Priority	Progress / Comments	Programme of Future Meetings
(1) New panel meeting dates for 2011/12	June 2011	To advise on provisional dates for the forthcoming year	30 June 2011;
(2) Review of Referendum/Elections – May 2011	June 2011		Provisional dates, as follows:
(3) Complaints Panel – Terms of Reference	June 2011		27 July;
(4) Substitutions at Meetings	June 2011		8 November; and
(5) Review of Officer Delegation			20 February 2012
(6) Review of Financial Regulations			
(7) Planning/Covenants – Council Responsibilities			
(8) Review of Petitions – Change in Legal Requirements			
(9) Review of Annual Council arrangements			
(10) Statutory Review of Polling Stations	Autumn 2011		

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Report to the Constitution and Members Services Standing Scrutiny Panel



Date of meeting: 30 June 2011

Portfolio Holder: Leader (Counting Officer's and Returning Officer)  Epping Forest District Council

Subject: Referendum and Elections – 5 May 2011

Officer Contact for further Information: Ian Willett (01992 564243)
Graham Lunnun (01992 564244)
Simon Hill (01992 564249)
Wendy MacLeod (01992 564023)

Democratic Services Officer: Mark Jenkins (01992 564607)

Recommendation:

To consider this review of the Referendum and Elections held on 5 May 2011.

Referendum, District and Parish/Town Council Elections

1. The Referendum on the voting system for United Kingdom Parliamentary Elections was held on 5 May 2011 together with District and Parish/Town Council Elections.
2. The Referendum was held to decide on the following question:

"At present, the UK uses the "first past the post" system to elect MPs to the House of Commons. Should the "alternative vote" system be used instead?".

3. The following District Council Wards were contested:

Broadley Common, Epping Upland and Nazeing
Buckhurst Hill West
Chipping Ongar, Greensted and Marden Ash
Epping Hemnall
Epping Lindsey and Thornwood Common
Grange Hill
Hastingwood, Matching and Sheering Village
Lambourne
Lower Nazeing
Lower Sheering
North Weald Bassett
Roydon
Shelley
Waltham Abbey High Beach
Waltham Abbey Honey Lane
Waltham Abbey North East
Waltham Abbey Paternoster
Waltham Abbey South West

4. There were 4 Parish/Town Council Ward contested elections:

Hemnall (Epping Town Council)
St Johns (Epping Town Council)
Marden Ash (Ongar Town Council)
Waltham Abbey North East (Waltham Abbey Town Council)

Results

5. The electorate for the Referendum in the Epping Forest District was 95,778. A total of 36,909 papers were issued of which 36,908 were counted. 28,240 electors cast votes in favour of No (77% of the share votes cast) and 8,533 cast votes in favour of Yes (23% of the share of the votes cast). The turnout was 39%.
6. The overall UK result of the Referendum was 13,013,123 in favour of No (67.90%) and 6,152,607 in favour of Yes (32.10%).
7. In each of the District Wards contested, one councillor was due to be elected. Turnout in the District Wards varied between 47.80% in the Chipping Ongar, Greensted and Marden Ash Ward and 26.10% in the Waltham Abbey Paternoster Ward.
8. In the Hemnall Ward for Epping Town Council, electors were able to vote for up to 6 candidates from a list of 12. The turn out was 46.60%. In the St John's Ward for Epping Town Council electors were able to vote for up to 6 candidates from a list of 9. The turn out was 43.64%. In relation to the Marden Ash Ward for the Ongar Town Council electors were able to vote for up to 4 candidates from a list of 5. The turnout was 50.70%. In the Waltham Abbey North East Ward for the Waltham Abbey Town Council electors were able to vote for up to 2 candidates from a list of 4. The turnout was 38.08%.

Arrangements

9. The Referendum was held under the framework provided by the Political Parties, Elections and Referendums Act 2000 (PPERA). A Referendum held under PERPA has a different management and accountability structure compared to any election. It requires a Chief Counting Officer to be responsible for certifying the overall result. The Chair of the Electoral Commission, Jenny Watson, was appointed the Chief Counting Officer for this Referendum. She had the power to give general or specific directions to Counting Officers relating to the discharge of their functions in the Referendum, including directions requiring Counting Officers to take specified preparatory steps or to provide any information that they have or are entitled to have.
10. The Chief Counting Officer at the outset stated that given the UK-wide nature of the event she intended to use this power to ensure that the Referendum was conducted to the same standards and principles in all voting areas. The Chief Counting Officer advised that the power of direction applied to the Referendum and elections on 5 May Accordingly, it was necessary to comply with some 207 directions given by the Chief Counting Officer. Her instructions were divided into five modules covering the following areas:

- (a) Planning and Administration;
 - (b) Administering the Polls;
 - (c) Absent Voting;
 - (d) Verification and Count; and
 - (e) After the declaration of results.
11. There was a debate about whether directions by the Chief Counting Officer were binding on Returning Officers who were responsible for concurrent elections. This was never fully resolved but did not cause any concerns locally.

Polling Stations

12. The Chief Counting Officer directed ratios in relation to the staffing of Polling Stations. She required that a Polling Station could not have more than 2,500 electors allocated to it and that in addition to a Presiding Officer there had to be one Poll Clerk for Polling Stations with up to 750 electors. She further specified that one additional Poll Clerk had to be appointed for Polling Stations with up to 1,500 electors and that one further Poll Clerk had to be appointed for Polling Stations with up to the maximum of 2,500 electors.
13. In order to abide by this direction it was necessary to provide 87 Polling Stations on 5 May 2011. This required the appointment of over 80 Presiding Officers and around 150 Poll Clerks. Sufficient staff were appointed including some standby staff some of whom had to be called upon at short notice.
14. Established Polling Stations were used except at Limes Farm, Chigwell where a hall at the side of Chigwell and Hainault Synagogue was used instead of the normal venue at Limes Farm Hall which was having works undertaken. This new venue was well received.
15. No representations have been received raising issues about the lack of facilities at any Polling Station. Some comments were received about the arrangements at the Thomas Willingale School, Willingale Road, Loughton and at the White Bridge School, Greensted Road, Loughton. The former provided its nursery building as the Polling Station and this necessitated quite a long walk from the car park to the Polling Station. There is no other suitable building in the locality which could be used as a Polling Station and a compromise has to be achieved in relation to which part of the School can be used. There is a need to respect the needs and security of the School. Likewise there was a long walk for voters across the grounds of the White Bridge School, longer in fact than at Thomas Willingale School. However, the terrain was flat and access easy from the point of view of voters with mobility problems. This did not seem to be an issue but this will be reviewed again.

Postal Votes

16. The total number of Referendum postal vote packets issued was 9540, many of which also included District Council ballot papers and some also Parish/Town Council ballot papers. Approximately 74 % were returned. The Chief Counting Officer directed that arrangements be made for a final sweep of Royal Mail Sorting Offices on polling day in order to locate and receive postal votes still in the postal system. This required a

licence from Royal Mail costing £598 and payment of £544 for a sweep of the Main Sorting Office in the District and £435 for each additional sweep of other sorting offices. In the Epping Forest District there are a total of 5 Sorting Offices. A total of 4 postal votes were received as a result of these sweeps. In the Council's post on 6 and 9 May a total of 26 postal vote packages were received, suggesting that some of those had been in the Royal Mail system on polling day., As part of feedback to the Electoral Commission representations will be made questioning the value of these sweeps, although the cost will be met nationally.

17. Difficulties were also experienced in obtaining the approval of Royal Mail to the form of the postal vote return envelope. Several drafts were submitted with the areas of the printed information needing to be moved a matter of millimetres each time. This resulted in the envelopes only just being printed in time for the postal vote issue without formal approval from Royal Mail. This could have increased costs as Royal Mail had advised that they would impose a surcharge on the use of unauthorised envelopes. However, approval was eventually received. It is apparent from the envelopes received by staff in other areas that there was no consistency in the layout of the return envelopes and again representations will be made to the Electoral Commission about this issue.
18. The issue and opening sessions for postal votes went smoothly. The software and scanners used for checking personal identifiers (signature and date of birth) again worked well. There was no evidence of any postal vote fraud although 177 postal votes were rejected because of a lack of comparison between signatures and/or dates of birth.

Ballot Papers

19. The proofs of all Referendum, District Council and Parish/Town Council ballot papers were scrutinised carefully and all ballot papers were printed in the correct format. In addition a manual check was made of each ballot paper prior to election day to ensure that books were printed correctly and that all papers included the official mark. All of the papers were printed by the Council's Reprographics Section and only a few minor errors were found prior to 5 May. It is unlikely that such a good service would have been given by an external printer.
20. There were no reports from Polling Stations of printing errors on the papers.

Spoilt Papers

21. There were 135 ballot papers rejected in respect of the Referendum, 125 for being unmarked or wholly void for uncertainty, 7 for voting for both answers to the question asked, and 3 for writing or marking the ballot paper in a way by which the voter could be identified.
22. The number of ballot papers rejected in respect of the District Council Elections varied between 25 in the Grange Hill Ward and 6 in both the Roydon and Shelley Wards. The majority of papers were rejected for being unmarked or wholly void for uncertainty.
23. In the Parish/Town Council Ward Elections there was a greater number of ballot papers rejected. In the Hemnall Ward for Epping Town Council 59 papers were rejected, in the St Johns Ward for Epping Town Council 31 papers were rejected, in the Marden Ash Ward for the Ongar Town Council 80 papers were rejected and in

the Waltham Abbey North East Ward for the Waltham Abbey Town Council 37 papers were rejected. The majority of the rejected papers in all cases were unmarked. Some papers were rejected because voters used the AV system of voting, ie numbering candidates 1, 2, 3 etc. instead placing consistent marks against their choices. National advice in relation to such papers is that, on balance, they should be rejected. The Returning Officer followed this advice.

Verification and Counts

24. Verification of the Referendum, District Council and Parish/Town Council papers commenced at 9.00 a.m. at Theydon Bois Village Hall on 6 May. The verification process and the counting of the District Council Wards was completed by 1.30 p.m. As the Chief Counting Officer had directed that the counting of the Referendum papers could not commence until 4.00 p.m. there had a break in proceedings until that time. A decision had previously been taken to count the Town/Parish Wards on 7 May as it could not be anticipated how long it would take to complete the verification process and the counting of the District Council Wards. The Referendum Count was completed by 5.30 p.m. The results were published immediately on the Council's website.
25. One Counting Agent expressed concern about restricted access preventing him from properly scrutinising the count process. No other concerns were expressed and taking account of the available space in the Theydon Bois Village Hall it is considered that the layout and the arrangements are probably the best that can be achieved. Some minor changes to the layout of the smaller hall will be investigated for the future.
26. The Parish/Town Council counts commenced at 10.00 a.m. on 7 May 2011 and were completed by midday despite the need to use "grass skirts".

Police Liaison

27. Discussions were held with the Police prior the election and the Police prepared a Policing Plan. The Police response was again very good this year with all Polling Stations receiving regular visits. There were no instances requiring immediate Police presence outside of the regular visits. There was also Police support provided at the Civic Offices at the close of poll to oversee the delivery of ballot boxes etc, and at the Count Centre. Police Officers escorted the delivery of ballot boxes from the Civic Offices to the Count Centre on 6 May. From a Policing prospective the elections gave little cause for concern. Police visits during polling day were well received by Polling Station staff.

Complaints and Queries Received in the Elections Office

28. There were few telephone calls made to the Elections Office on 5 May by electors. Some calls were made by Presiding Officers seeking clarification of procedures.
29. No formal complaints have been received regarding an alleged breach of electoral law.

30. Representations were made about the size of a badge being worn by a teller for the Referendum. The Electoral Commission published tellers' guidance including views on the size of rosettes. The Commission stated they considered a badge of a reasonable size (equivalent to a rosette of a reasonable size) would be acceptable. They also stated rosettes/badges could display the name of the campaigner, candidate or party, and/or an emblem or description. They further suggested that the use of the word 'yes' or 'no' should be considered to be acceptable. After confronting the teller a smaller badge complying with the Electoral Commission guidance was substituted.

Feedback from Election Agents and Candidates

31. Election Agents were invited to express views on the running of the Referendum, the Elections and the Counts.
32. One agent drew attention to a lack of candidate lists inside polling stations, the number of tellers/supporters outside of one polling station, the layout of the small hall for the count at Theydon Bois Village Hall and the need to keep ballot papers face up during the count. This latter point was also made by another agent.
33. One of the directions from the Electoral Commission was that the Notice of Poll which includes candidates' details was not to be displayed in polling stations. They specified that the only notices to be displayed were an A3 one in the polling booths advising how many crosses to put on each ballot paper and an A2 notice telling electors how to vote. Whilst it has been common practice to display the Notice of Poll in polling stations it is not a notice specified in the legislation for display inside polling stations and the Electoral Commission required strict adherence with the legislation.
34. Some issues regarding the presence of supporters and tellers at or in the car park of the Saxon Way, Waltham Abbey polling stations were reported on the day and the stations were visited by both the Returning Officer and one of the Deputy Returning Officers. Advice was given to those present at the times of those visits but as there were two polling stations within the one building it was permissible to have separate tellers for each station.
35. As indicated in the Verification and Counts section above it is considered that the layout and the arrangements at Theydon Bois Village Hall are probably the best that can be achieved. However, some minor changes to the layout of the smaller hall will be investigated for the future.
36. Staff were reminded of the need to keep ballot papers face up during the count proceedings both at training and at the count and this requirement will continue to be emphasised in future. The Returning Officer and Deputy Returning Officers did not witness ballot papers face down at either the verification or counting stages except for some instances when bundles of 50 papers were being double checked when counters experienced papers sticking together when face up.
37. One agent referred to the locally agreed protocol which continues to require tellers to approach electors for their addresses, registration numbers only on the way out of the polling station whereas the Electoral Commission has advised that it is permissible for electors to be approached by tellers when entering the polling station. The agent has asked that the protocol should be changed as in his view electors are less likely to have their poll cards or talk to tellers when leaving the polling station.
38. This protocol was agreed with agents of all parties a few years ago and has worked

well. Electors are not delayed from entering the polling station. The Returning Officer will reconsider this protocol but at present is reluctant to change it unless members share the view of the agent.

39. Representations were also made about tellers having to stand outside of a polling station and to one presiding officer retaining poll cards and not allowing electors to keep them to hand to tellers on exiting the polling station.
40. In some polling stations it is possible to accommodate tellers inside the building, eg in a lobby to the main room where voting takes place. However, some polling stations only comprise the main room and at such locations tellers have to stand outside. Presiding officers are instructed to arrange for the secure destruction of any poll cards left in the polling station by electors. However, they are not expected to retain poll cards and it is a matter for the elector as to whether they hand their poll card to a teller on leaving the polling station. The Returning Officer is making enquiries to establish whether a Presiding Officer misinterpreted the instructions given.
41. All of the issues raised will be taken into account in relation to the planning and running of future elections.

Members' Views

42. Members are invited to express views on the running of the Referendum and the Elections held on 5 May 2011 which will also be taken into account for future elections.

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Report to Constitution and Member Services Scrutiny Standing Panel

Date of meeting: 2 June 2011

Subject: Member Complaints Panel – Limits of Jurisdiction

Officer contact for further information: J. Filby

Committee Secretary: Mark Jenkins (01992 56 4607)



Recommendations/Decisions Required:

- (1) That revisions to the limits of jurisdiction of the Complaints Panel be approved;
- (2) That a report be submitted to the Overview & Scrutiny Committee and the Council recommending that Annex 1 (section 1) to the terms of reference of the Complaints Panel be amended as set out in paragraph 3 and published in the Constitution.

Report:

1. The Member Complaints Panel (CP) is responsible for considering complaints at Step 4 in the Council's complaints procedure. Currently, certain types of complaints fall outside the limits of jurisdiction of the Panel and cannot therefore be considered at Step 4. These limits are published on page C23 of the Constitution as an annex to the terms of reference of the Complaints Panel.

2. These exclusions are:

- (a) a complaint about a situation which arose more than 12 months before it was brought to the attention of the Council (unless new information has since been identified which would justify a further review of the complaint);
- (b) where an alternative and formal right of appeal exists (e.g. Planning Appeal; Housing Appeal; Benefits Tribunal) and for which the complainant failed to exercise his/her right to appeal within the specified timescale, or has not yet appealed, or has already made such an appeal;
- (c) matters which would best be dealt with by the Courts, e.g. Human Rights issues;
- (d) matters which would affect the majority of the people in the Epping Forest District, e.g. a complaint that "the Council Tax is too high";
- (e) complaints for which a resolution could only be achieved through a change in the law, or a change in the policies of another organisation;
- (f) complaints about policies currently subject to a review, or about matters for which it has already been agreed that a policy needs to be reviewed or formulated. (Note -

this exclusion does not preclude the consideration of a complaint about the way a policy has been administered, e.g. an allegation that a policy had been administered unfairly, or that the Council had fettered its discretion);

(g) complaints about the frequency of delivery, or the level of a service which is subject to contract conditions (again, a complaint about the way a contract service has been delivered could still be considered by the CP);

(h) where the customer elects to pursue legal action as a means of determining their complaint. (Note - this would not preclude the CP considering non-legal elements of a complaint, e.g. an allegation of unreasonable delay by the Council in undertaking a statutory or agreed course of action);

3. In recent years, other types of complaints have been made for which consideration by the Complaints Panel was found to be inappropriate. It is therefore recommended that the limits of jurisdiction should be extended to encompass these as well:

(a) If, at Step 1, 2 or 3 in the complaints procedure, the complainant has already been offered the maximum remedy that the Complaints Panel is empowered to offer.

Reason – the complainant could gain no additional benefit from a further review at Step 4.

(b) When there is no evidence that the complainant has suffered any harm or injustice even if there has been administrative fault by the Council.

Reason – unless the complainant can show that they have suffered an injustice, there are no matters that require rectification. Members are asked to note that the Local Government Ombudsman applies the same exclusion.

(c) If, at Step 1, 2 or 3 in the complaints procedure, the complainant has already accepted the proposed remedy and has formally confirmed that he or she has done so in full and final settlement of all of his or her complaints.

Reason – formal acceptance of a remedy concludes the complaint.

(d) If, by going to Step 4, the complainant would then be left with insufficient time to subsequently submit a complaint to the Local Government Ombudsman within the Ombudsman's 12 month time limit.

Reason - the Ombudsman will not usually consider a complaint if more than 12 months have elapsed since the complainant first became aware of the problem. If the Council was to insist that all complainants always go through Step 4 before being able to make a complaint to the Ombudsman and, by doing so, the complainant is then unable to comply with the Ombudsman's 12 month rule, this would leave the Council vulnerable to a further complaint that its actions prevented the complainant from being able to exercise their right to request a final review by the Ombudsman.

(e) If the complaint has already been determined by the Local Government Ombudsman.

Reason – the decisions of the Ombudsman take precedence over the decisions of the Council.

4. Members are asked to note that, if a complainant feels they have been wrongfully denied a Step 4 review, then they are entitled to make that complaint to the Local Government Ombudsman.

Next Steps

5. If the Panel approve the proposed changes they should recommend these for adoption to the Overview & Scrutiny Committee and the Council.

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Report to Constitution and Member Services Scrutiny Standing Panel

Date of meeting: 2 June 2011

Subject: Member Substitutions at Committees

**Officer contact for further information: Ian Willett,
Assistant to the Chief Executive (01992 56 4243)**

Committee Secretary: Mark Jenkins (01992 56 4607)

Recommendations/Decisions Required:

- (1) That a report be submitted to Overview and Scrutiny Committee and then Council recommending as follows:
 - (a) That one of the following members, or all three, be designated as group contact for making substitutions:
 - (b) Group Leader;
 - (c) Deputy Group Leader;
 - (d) Party Whip;
 - (e) Or other appointed Group member; and
 - (2) To consider amendment to the Constitution in respect of Operational Standing Orders – Non-Executive Bodies (14) (4) (i) in respect of notification deadlines for substitutes.
 - (3) To seek consequential amendments to the Constitution as a result of this review.

Report:

1. The District Council's Constitution allows for substitutes to be nominated at Overview and Scrutiny Committees/Panels and the District Development Control Committee (Operational Standing Orders – Non Executive Bodies (14)).
2. Currently a substitution has to be notified to Democratic Services by 10.00 a.m. on the day of the meeting. The point of contact is a single member for each group. It has recently been the case, with one political group in the district, that the party whip had undertaken this role. However the Constitution stipulates that only the Deputy Group Leader undertakes this role. There may be scope for widening this role to include the Group Deputy Leader and a whip or other delegated individual.
3. At the last Overview and Scrutiny Committee meeting on 11 April 2011 a request was made for a report to be submitted to the Constitution and Member Services Scrutiny Standing Panel regarding the process of making substitutions for Overview and Scrutiny Committees and the District Development Control Committee. The request to the Overview and Scrutiny Committee earlier in the year was to change the 10.00 a.m. deadline for notification to 4.00 p.m. on the day of the meeting. This would provide groups with greater flexibility when arranging substitutions, particularly if apologies are received at short notice.
4. However it should be noted that not all meetings concerned here start at the conventional time of 7.30 p.m. The Housing Scrutiny Standing Panel begins at 5.30 p.m. In

this case notification for substitutions should take place earlier. There are options for the substitution deadline:

- (a) That substitute arrangements remain the same; or
- (b) That substitutions take place by 4.00p.m. on the day of the meeting; or
- (c) That substitutions take place, say, three hours before the start of the meeting, or by 4.00p.m., whichever is the earliest.

The Panel is asked to consider these options.