

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION AND MEMBERS SERVICES SCRUTINY
STANDING PANEL
HELD ON WEDNESDAY, 27 JULY 2011
IN COMMITTEE ROOM 1
AT 7.00 - 9.15 PM**

Members Present: D Stallan (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

Other members present: A Watts

Apologies for Absence: D C Johnson

Officers Present I Willett (Assistant to the Chief Executive) and M Jenkins (Democratic Services Assistant)

10. NOTES OF THE LAST MEETING

RESOLVED:

That the notes of the last meeting of the Panel held on 30 June 2011 be agreed.

11. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

There were no substitute members present at the meeting.

12. DECLARATION OF INTERESTS

Pursuant to the Council's Code of Member Conduct, Councillor Mrs S Watson, declared a personal interest in the following item of the agenda by virtue of being a Deputy Portfolio Holder and Member of the Audit and Governance Committee. The Councillor stated that her interest was not prejudicial and that she would remain in the meeting during the consideration on the item but would abstain from voting:

Item 6 Audit and Governance Committee - Membership

13. TERMS OF REFERENCE / WORK PROGRAMME

The Panel's Terms of Reference were noted.

The Panel received updates to the Work Programme as follows:

(a) Item 8 Report on Webcasting

The report on Webcasting would be submitted in October 2011. It was advised that following discussion with the Panel member requesting the item, there was no need for a scoping report.

(b) Item 16 Report of External Auditor (dependant on Council decision 26 July 2011)

The Panel were advised that a report would be scheduled into the Work Programme if the Council called for this review and Overview and Scrutiny Committee allocated this to the Panel.

Members requested two extra items: a report concerning the Member's Dispatch arrangements and reporting by Representatives on Outside Bodies. These items would be added to the Work Programme.

RESOLVED:

That the Overview and Scrutiny Committee be advised that items will be added to the Work Programme regarding the Member's Dispatch, and Member Representatives on Outside Bodies.

14. AUDIT AND GOVERNANCE COMMITTEE - MEMBERSHIP

The Panel received a report from Mr I Willett, Assistant to the Chief Executive, regarding Audit and Governance Committee Membership.

The report had originated from the Independent Members of the Audit and Governance Committee and the officers on the Corporate Governance Group. There was concern that Deputy Portfolio Holders should not be members of the Audit and Governance Committee as their conflict of interest may be construed as prejudicial.

Audit and Governance Committee – Present Position

The Audit and Governance Committee (AGC) comprised 5 members as follows:

- (1) 3 Councillors appointed annually at the Annual Council meeting; and
- (2) 2 co-opted members appointed following public advertisement and interview.

The three Councillors may not include:

- (a) Any member of the Cabinet;
- (b) Any member of a Cabinet Committee; and
- (c) Any Panel appointed by the Overview and Scrutiny Committee responsible for reviewing the Council's finances of financial procedures.

The Chairman of the AGC was appointed from among the three Councillors whilst the Vice Chairman was appointed from one of the two co-opted members.

Since the establishment of the Committee, Deputy Portfolio Holder positions had been created. The Terms of Reference for the AGC make no mention on whether these deputies should be members.

Deputy Portfolio Holder (DPHs)

DPH's functions were as follows:

- to support the Cabinet members in their portfolios.

Constitution and Members Services Scrutiny Standing Panel Wednesday, 27 July 2011

- positions which assisted succession planning by giving deputies experience of Cabinet work.
- not decision making.
- not voting at Cabinet meetings, Cabinet Committees or signing Portfolio Holder Decisions.
- in the absence of the Cabinet member, the Leader would allocate that matter to another Portfolio Holder.
- assist with preparing reports or Portfolio Holder Decisions.

The Audit Role

In Overview and Scrutiny, the Code of Conduct imposed restrictions on member, being directly involved in reviewing decisions with which they were previously involved.

The AGC was not involved in decision making but reviewed and ought assurance that proper processes were fit for purpose.

Views of the Council's External Auditors

The views of the Council's external auditors had been obtained. The Panel commented as follows:

- there was no current legislation relating to audit committees.
- the CIPFA Guide stated in respect of independence: "To be effective the audit committee needed to be independent from executive and scrutiny." It could be "compromised by too much cross-membership."
- it was highly preferable that DPHs should not be members of the AGC.
- there should be rules about declarations of interest
- the title Deputy Portfolio Holder is misleading, Portfolio Holder Assistant was preferable.

Some members felt that the main issue regarding DPHs sitting on AGC was public perception. Members can attend all meetings to give comments. It was difficult demonstrating independence for a DPH. However other members advised that there was currently exclusion on members sitting on both the Audit and Governance Committee and the Finance and performance Management Scrutiny Standing Panel. There were declarations of interest that should be made, excluding a DPH from participating in an AGC decision.

The Panel supported allowing Deputy Portfolio Holders to remain as members, but subject to declaration of prejudicial interests relating to Cabinet business and excluding the Finance Deputy specifically.

RECOMMENDED:

- (1) That the comments of the Council's External Auditors on membership of the Audit and Governance Committee be noted;
- (2) That the Audit and Governance Committee be consulted on the following options concerning Deputy Portfolio Holders:

- (a) allowing Deputy Portfolio Holders, except a Deputy Portfolio Holder involved in the Finance Portfolios, to remain as members but subject to declaration of personal or prejudicial interests relating to Cabinet matters;
 - (b) these proposals to be reviewed after one year or if there is a change in the roles and of Deputy Portfolio Holders or the Audit and Governance Committee; and
 - (c) the designation “Deputy Portfolio Holder” be changed to “Portfolio Holder Assistant.”
- (3) That the views of the Audit and Governance Committee be reported back to the October meeting of this Panel.

15. REVIEW OF MEMBER REMUNERATION AND ROLE OF SCRUTINY PANEL CHAIRMEN - SCOPING

The Panel received a report from Mr I Willett, Assistant to the Chief Executive, regarding the Review of Member Remuneration and the Role of Scrutiny Panel Chairmen in presenting reports at Council meetings.

The Overview and Scrutiny Committee had agreed to four additional items in the Panel’s Work Programme for this year. Two of these were reviews which required scoping discussions beforehand, namely:

- (a) the Annual Report 2010/11 of the District Remuneration Panel which was submitted to the June Council meeting; and
- (b) the Review of the Overview Scrutiny Rules with regard to Panel Chairmen, presenting recommendations at Council meetings.

RESOLVED:

- (1) That for the Review of Member Remuneration members of the remuneration Panel be invited to attend the October 2011 meeting and in the meantime all Councillors be invited to comment via the Council Bulletin.
- (2) That for the review of the Role of Scrutiny Panel Chairmen in presenting reports at Council meetings, those Chairmen be invited to attend the November 2011 meeting or express their views by email and that the same invitation be made to the Chairman of the Overview and scrutiny Committee.

16. COUNCIL PROCEDURE RULES - REPORTS ON OUTSIDE ORGANISATIONS

The Panel received a report from Mr I Willett, Assistant to the Chief Executive, regarding Council Procedure Rules – Reports on Outside Organisations.

Under Council Procedure Rule 2, Paragraph ix stated that the Council would “receive reports about and receive questions and answers on the business of joint arrangements and external organisations.”

Although the nature of the report was not specified, the Panel’s attention was drawn to reports by the Overview and Scrutiny Committee Chairman and Portfolio Holders at Council meetings which were required to be in writing and therefore circulated with

the Council agenda. This was because those reports were subject to questions without notice by other councillors. The Panel was advised that these proposed amendments would need approval from the Overview and Scrutiny Committee and the Council.

Members were in favour of written reports being submitted on outside bodies as long as they were received beforehand.

RECOMMENDED:

That written reports by representatives on outside bodies be circulated in advance of Council meetings and Council Procedure Rule 2 (ix) amended accordingly and to allow Council members to request reports for future meetings.

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

The only report being recommended to the Overview and Scrutiny Committee was Council Procedure Rules – Reports on Outside Organisations. The next Committee was on 6 September 2011.

18. FUTURE MEETINGS

It was necessary to book two extra meetings because of the Panel's workload. The next meeting of the Panel would be Tuesday 4 October 2011. In addition, the members were supplied with three further dates in March/April 2012 which were:

- Monday 26 March 2012; or
- Thursday 29 March; or
- Tuesday 3 April

Members would formally book one of these dates nearer the time.