

Scrutiny Standing Panel Agenda



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

The notes of the last Panel meeting, held on 30 June 2011 are yet to be completed. They will be submitted to the next Panel meeting.

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 3 - 6)

(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 year's OS work plan incorporating a programme for this Panel.

6. AUDIT AND GOVERNANCE COMMITTEE - MEMBERSHIP (Pages 7 - 10)

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

7. REVIEW OF MEMBER REMUNERATION AND ROLE OF SCRUTINY PANEL (Pages 11 - 22)

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

8. COUNCIL PROCEDURE RULES - REPORTS ON OUTSIDE ORGANISATIONS (Pages 23 - 24)

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

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 8 November 2011 at 7.00p.m. in Committee Room 1. The next programmed meeting is on:

Tuesday 8 November

It has been necessary to book two extra meetings because of the Panel's workload. The available dates are as follows:

Tuesday 4 October 2011; and

Monday 26 March 2012; or

Thursday 29 March; or

Tuesday 3 April

Agenda Item 5

TERMS OF REFERENCE - STANDING PANEL

Title: Constitution and Member Services
Status: Standing Panel
Terms of Reference: <ol style="list-style-type: none">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 Stallan)**

Item	Report Deadline/Priority	Progress / Comments	Programme of Future Meetings
(1) New panel meeting dates for 2011/12	30 June 2011	COMPLETED	<p>30 June 2011; 27 July; 8 November; and 20 February 2012</p> <p>Two extra meetings required:</p> <p>October 2011; and March/April 2012</p>
(2) Review of Referendum/Elections – May 2011	30 June 2011	COMPLETED	
(3) Complaints Panel – Terms of Reference	30 June 2011	COMPLETED	
(4) Substitutions at Meetings	30 June 2011	COMPLETED	
(5) Council Meetings – Member reports on outside bodies	27 July 2011	Deferred from 2010/11	
(6) Review of Membership of Audit and Governance Committee Deputy Portfolio Holder	27 July 2011		
(7) Report of District Remuneration Panel	27 July 2011 (Scoping) Report submitted to October 2011 Panel meeting		
(8) Report on Webcasting	27 July 2011 (Scoping) Report submitted to October 2011 Panel meeting		

(9) Planning/Covenants – Council Responsibilities	October 2011		
(10) Review of Petitions – Change in Legal Requirements	8 November 2011		
(11) Statutory Review of Polling Stations	8 November 2011		
(12) Reporting at Council meetings by Scrutiny Panel Chairmen	8 November 2011		
(13) Review of Officer Delegation	20 February 2012		
(14) Review of Financial Regulations	20 February 2012		
(15) Review of Annual Council arrangements	20 February 2012		
(16) Report of External Auditor (dependent on Council decision 26 July 2011)	TBA		

Report to the Constitution and Members Services Standing Scrutiny Panel



Date of meeting: 27 July 2011

Portfolio Holder: Leader

Subject: Audit and Governance Committee – Membership

Officer Contact for further Information: Ian Willett (01992 564243)

Democratic Services Officer: Mark Jenkins (01992 564607)

Decisions Required:

- (1) To note the comments of the council's external auditors on membership of the Audit & Governance Committee;
- (2) To consider the following options for membership of the Audit and Governance Committee concerning Deputy Portfolio Holders:
 - (a) precluding Deputy Portfolio Holders from membership of the Committee; or
 - (b) allowing Deputy Portfolio Holders to remain as members but subject to declaration of prejudicial interests relating to Cabinet business; or
 - (c) a combination of (b) above and excluding the Finance Deputy specifically;
- (3) To recommend amendments to the Constitution to reflect the preferred option; and
- (4) To review the designation "Deputy Portfolio Holder" for the future.

Report

1. AUDIT AND GOVERNMENT COMMITTEE – PRESENT POSITION

1.1 The Audit & Governance Committee (AGC) comprises 5 members as follows:

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

1.2 Currently, the three Councillors may not include:

- (a) any member of the Cabinet;
- (b) any member of a Cabinet Committee;
- (c) any panel appointed by the Overview and Scrutiny Committee to be responsible for reviewing the Council's finances or financial procedures.

- 1.3 The Chairman of the AGC is appointed from among the three Councillors whilst the Vice Chairman is appointed from one of the two co-opted members.
- 1.4 Since the establishment of the Committee, deputy Cabinet positions have been created. The terms of reference of the AGC is currently silent on whether these deputies may be members.

2. DEPUTY PORTFOLIO HOLDERS (DPHs)

- 2.1 In summary, DPHs are appointed to support the appointed Cabinet members in their portfolios. They are also seen as positions which assist succession planning by showing deputies an insight at first hand of Cabinet work.
- 2.2 DPH's may not make decisions on behalf of the Cabinet member concerned. They cannot vote at Cabinet meetings or at Cabinet Committees and cannot sign Portfolio Holder decisions. In the event that any portfolio matter arises in the absence of the Cabinet member, it is for the Leader to allocate that matter to another Portfolio Holder.
- 2.3 This is not to say that DPHs are not involved in Cabinet business. They might be asked , for instance, prepare reports or Portfolio Holder decisions for approval by the lead Cabinet member. In that sense, they could be involved in the work associated with the portfolio.
- 2.4 In passing, the term "Deputy" may be a misnomer in that the DPH's do not deputise in the accepted sense. The Panel might consider a different title, such as "Portfolio Holder Assistant" which might better reflect the role.

3. THE AUDIT ROLE

- 3.1 In Overview and Scrutiny, the Code of Conduct imposes restrictions on members being directly involved in reviewing decisions with which they were previously involved. There are parallels here with the role of AGC.
- 3.2 The essence of the AGC is not to be involved in Council decision making but to review and seek assurance that proper processes are fit for purpose. A wide range of such matters is set out in the Committee's terms of reference.
- 3.3 The Council's Corporate Governance Group and the independent members of AGC have queried the appointment of the Deputy Portfolio Holder for Housing to serve on AGC this year. The Constitution could be read as not giving authority for such an appointment because it is silent on the matter. By the same token, it could be argued that the Constitution does not prevent this.
- 3.4 It is desirable that the issue to be resolved. Although good audit practice would dictate a complete separation of roles between the Cabinet and the AGC but a range of options is nevertheless set out in recommendation (1) of the report as possible ways of amending the constitution. These are in summary:
 - (a) excluding DPHs;
 - (b) allowing DPHs to be members but subject to the normal declaration rules re conflicts of interest;
 - (c) excluding the Finance and ICT DPH(s) specifically and rely on (b) for the other

deputies;

- (d) permitting DPHs to be members of the AGC

4. VIEWS OF THE COUNCIL'S EXTERNAL AUDITORS

4.1 The views of the Council' external auditors have been obtained. MR R. Bint has commented as follows:

“By way of background, there is no current legislation relating to audit committees. However as you are aware, the CLG is consulting on the future of local public audit and they are proposing that in due course audit committees of local authorities should be given the key role in appointment of external auditors. This latter role will be predicated on the independence of the audit committee including truly independent outside members. They propose introducing legislation requiring local authorities to have audit committees, specifying their role and almost certainly membership criteria. At that point it is highly possible that DPHs and similar would be excluded from membership of audit committees. However, that is two or three years away.

In the meantime while there is no legislation CIPFA publish “Audit Committees: Practical Guidance for Local Authorities” which is the extant best practice guidance. The CIPFA Guide states in respect of independence:

“To be effective the audit committee needs to be independent from executive and scrutiny. The link with the scrutiny function can be beneficial but the ultimate power of the audit committee could be compromised by too much cross-membership. The audit committee needs to retain the ability to challenge the executive on issues and to report to it on major issues and contraventions. Therefore cross-membership should not be the norm, and if it is seen as necessary should be restricted to one member from each.

The audit committee chair should not be, expressly, a member of the executive. A non-executive chair is important in order to promote the objectivity of the audit committee and to enhance its standing in the eyes of the public.

Whilst a separate voice is vital, a clear right of access to other committees of the council and strategic functions is also important if such independence is to lead to any beneficial action.”

It should be noted that whilst it stresses the general importance of independence a line is drawn in relation to the membership only of the chair not being a member of the executive. As I state above it is likely in my view future legislation may go further than this.

I am not aware of any other local authority we audit where members involved at member level in the executive process are members of the council's audit committee.

Having regard to the above my view on the four options in respect of the Scrutiny Panel paper are as follows:

It is highly preferable that DPHs should not be members of the AGC. In practice the only obvious good case for this if it meant a member or members with particularly relevant qualities and experience could become members and if they were debarred there would be no comparable alternative. Since contribution to the committee's affairs is also important this may sway the decision.

If the Council did decide to appoint them as AGC members I think, whilst prospectively the AGC may review any area of the Council's business, finance and ICT roles are closer to the core of AGC functions and these should certainly be precluded.

There should also be rules about declarations of interest but further than that if there were a report specifically on a DPH's portfolio area he or she should be proscribed from taking part in the debate. I accept there are some composite reports, e.g. the internal audit annual report which might impinge on many areas and in that case the DPH should be permitted to contribute (e.g. housing may be mentioned in a few cases in an internal audit report covering the whole Council).

So, while there is no prohibition, the CIPFA Guidance draws the line only at a need for non-executive chairs and therefore the Council can appoint DPHs to the AGC, I think it would be highly preferable they did not. In the event that they were to decide to do so there needs to be clear rules to deal with the most obvious areas of potential conflict.

Incidentally, I agree that the title Deputy Portfolio Holder is misleading and Portfolio Holder Assistant would be preferable and at least avoid some unnecessary perception issues."

5. FURTHER ACTION

- 5.1 Changes to the AGC terms of reference require Council approval and the views of that Committee could be obtained before the matter is considered by the Council.

Report to the Constitution and Members Services Standing Scrutiny Panel

Agenda Item 7



Date of meeting: 27 July 2011

Portfolio Holder: Leader

Subject: Review of Member Remuneration and the Role of Scrutiny Panel Chairman in presenting reports at Council meetings

Officer Contact for further Information: Ian Willett (01992 564243)

Democratic Services Officer: Mark Jenkins (01992 564607)

Recommendation:

To consider whether scoping reviews of these two items which have now been approved by the Overview and Scrutiny Committee as additions to the Panel's work programme for this year should be undertaken.

Report

1. The Overview and Scrutiny Committee has agreed to four additional items in the Panel's work programme for this year. This report concerns two of these reviews which may need a scoping discussion beforehand:

- (a) to establish what is to be the focus of the reviews; and
- (b) evidence which is required and how this is to be obtained.

2. The two items are:

- (a) the Annual Report of the District Remuneration Panel which was submitted to the June Council meeting and attached to this report as Appendix 1; and
- (b) the review of the Overview Scrutiny Rules with regard to Panel Chairmen (rather than the Chairman of the Overview and Scrutiny Committee) presenting recommendations at Council meetings.

3. The Panel is invited to discuss these two reviews at this meeting, preparatory to more detailed discussions at a later stage. The Panel may want to consider:

:

- (a) whether there should be consultation with interested parties on either topic;
- (b) any written material required for the review; and
- (c) how consultation is to be carried out.

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**EPPING FOREST DISTRICT
REMUNERATION PANEL
SIXTH ANNUAL REPORT 2010/11**

Introduction

This is the sixth annual report of the District Remuneration Panel for the Epping Forest District. The report summarises the Panel's work during the year 2010/11 and indicates further matters for review in the future.

Legal Background

We were established under the Local Government Act 2000, which requires the Council to establish a Remuneration Panel to advise on payment of allowances and expenses to District Councillors.

Remuneration schemes agreed under these arrangements are subject to public notification and copies of Remuneration schemes once agreed must be made available to the public for scrutiny as must the payments actually made at the end of each financial year.

Membership

The Panel currently comprises three independent members, namely:

David Jackman
Rosemary Kelly
Stephen Lye

2010/11 Review

Details of our review undertaken and our recommendations for implementation follow.

Recommendations:

Basic Allowance

- (1) That, having regard to the difference between the current amount in the adopted scheme (£4,300 per annum); and
 - (a) the average amount paid to similar Councils in the same region (£4,500);
 - (b) the amount (£4,625) achieved by applying the current Minimum Adult Wage of £5.53 per hour to a 15 hour week; and
 - (c) the lack of any increase in staff salaries since 2009/10;

no change be made to the amount of basic allowance;

- (2) That the Council again be encouraged to review its level of implementation of the Basic Allowance, currently £3,150 per annum, as it is clear that this is considerably less than the amounts paid to Councillors in similar authorities in the same region and it is considered there is a danger of undervaluing the role which may make it more difficult to attract potential candidates to stand for election in the future;

(3) That at this time no steps be taken to introduce a supplement to the Basic Allowance to be paid to Councillors attending a specified number of meetings/training sessions in view of:

(a) the difficulty of drawing up a workable scheme which complies with statutory requirements and can be monitored efficiently; and

(b) the review being undertaken by the Council of member training including the possible introduction of e-learning;

Special Responsibility Allowances

(4) That no Special Responsibility Allowance be paid to Deputy Portfolio Holders at the current time as they were only appointed in December 2010 and there has been little time to assess the roles being undertaken;

(5) That, based on consultations with the current six Licensing Sub-Committee Chairmen and attendance by members of the Panel at a Sub-Committee training session and as observers at two Sub-Committee meetings, it is considered there are grounds for granting a Special Responsibility Allowance for the role of Licensing Sub-Committee Chairmen;

(6) That, as it is considered the role of Licensing Sub-Committee Chairmen is similar to the role undertaken by Area Plans Sub-Committee Chairmen, a Special Responsibility Allowance be paid totalling £3,225 per annum to be divided equally between the six Licensing Sub-Committee Chairmen;

(7) That the Council determine the level of implementation of the allowance for the Chairmen of the Licensing Sub-Committee taking account of the current implementation level of £2,362 per annum for Chairmen of Area Plans Sub-Committees;

(8) That no further change be made to the amounts of Special Responsibility Allowances, having regard to the similarities in amounts of Special Responsibility Allowances in the Council's current adopted scheme and those of similar authorities in the same region as the Council;

Member Role Accountability Statements

(9) That the steps being taken to revise Member Role Accountability Statements of the various member roles undertaken at the Council be noted;

Co-optee Allowances

(10) That, pending clarification of the timescale for the abolition of the current complaints regime and the future role, if any, agreed by the Council for a Standards Committee, further work on a review of allowances to the independent members of the Standards Committee be deferred;

Travelling Allowances

(11) That the reference to first class rail return fare in the current scheme in relation to travel to meetings outside of the District or by members resident outside of the District be removed from the scheme;

(12) That no change be made to the other aspects of travelling allowances;

Subsistence Allowance

(13) That in order to continue to mirror the rates paid to officers, subsistence payments be revised as follows:

Breakfast up to £3;

Lunch up to £5 (less the average meal cost of £3.50);

Evening meal up to £11.77 (less the average meal cost of £3.50);

Carers' and Childcare Allowances

(14) That no change be made to the scheme in respect of Carers' and Childcare Allowances;

State Benefits

(15) That the attention of Councillors be drawn to the availability of the booklet published by the Local Government Information Unit entitled "Councillors' Tax and Benefits".

Report:

Background:

1. The present legislative framework for Members' Allowances Schemes is contained in the Local Authorities (Members' Allowances) (England) Regulations 2003. Councils are required to establish and have regard to the recommendations of local Remuneration Panels in setting and reviewing their Allowance Schemes. There are no national limits set. However, whilst acknowledging the value of local flexibility and independence provided by Remuneration Panels, the Government feel that it is important that Panel decisions are informed by good practice elsewhere.

2. The Government's "Guidance on Consolidated Regulations on Local Authority Allowances" outlines the main statutory provisions and gives non-statutory advice. A summary is given below:

(a) Basic Allowance:

Each local authority must make provision for a basic, flat rate allowance payable to all members; the allowance must be the same for each councillor and can be paid as a lump sum or in instalments;

(b) Special Responsibility Allowances (SRAs):

Each authority may make provision for the payment of Special Responsibility Allowances for those councillors who have significant responsibilities; the Panel recommends the responsibilities and the levels of allowances;

(c) Co-optees' Allowance:

Each authority may make provision for the payment of an allowance to co-optees for attending meetings, conferences and seminars;

(d) Childcare and Dependant Carers' Allowances:

Local authorities may make provision for the payment for an allowance to those councillors who incur expenditure on the care of children or dependant relatives whilst undertaking particular duties;

(e) Travel and Subsistence:

Each authority may determine the levels of travel and subsistence allowances and the duties to which they should apply;

(f) Pensions:

Each local authority may specify which councillors, if any, should be eligible for inclusion in the Local Government Pension Scheme and which allowances (Basic and/or Special Responsibility) should be pensionable;

(g) Indexation:

Each local authority may determine its allowances should be increased in accordance with the specified index and can identify the index and set the number of years (not exceeding four) for which it should apply;

(h) Backdating:

Each local authority may determine that, where amendments are made to an Allowances Scheme, the allowances as amended may be backdated.

3. The Epping Forest District Council's Members' Allowances Scheme was initially approved by the Council in December 2002 following consideration of a report from this Panel. The scheme has since been reviewed several times by the Panel with recommendations being considered by the Council.

4. Since 2002, the Council, for budget reasons, has not paid the full amounts of allowances recommended by the Panel as set out in the Council's adopted scheme. At its meeting in May 2008, the Council decided to implement a Basic Allowance at a figure of £3,150 per annum (approximately 73%) of the amount of Basic Allowance set out in the scheme - £4,300 per annum.

5. Similarly the Council implemented Special Responsibility Allowances at amounts less than those included in the approved scheme.

Benchmarking

6. In undertaking this review we have taken account of a survey conducted in the Spring/Summer 2008 on behalf of the Local Government Association and the Improvement and Development Agency. A total of 324 (83.9%) of 386 authorities responded to the survey which collected information on Basic Allowance, Special Responsibility Allowances and other allowances paid to members. This is the latest national survey undertaken.

Current Scheme

7. The Council's current scheme includes all of the key elements which the regulations allow, including admission of councillors to the Local Government Pension Scheme, child and carers' allowances, travel and subsistence expenses.

Basic Allowance

8. Basic Allowance is payable to all members to reflect the time and effort required to attend meetings, site visits and to deal with constituent problems and queries. It should also cover any incidental costs, e.g. telephone calls, paper, envelopes. It should also be borne in mind that the allowance recognises that there is a voluntary element to the work undertaken by members and that it does not set out to fully compensate all work undertaken. It is generally considered that the time spent on Council and political business should be “discounted” by between 25-50% in recognition of the public service element. Anything beyond 50% and councillors could be seen to be giving most of their time as public service, i.e. unremunerated, or anything less than 25% could give the impression that councillors are reluctant to recognise the public service element.

9. As advised earlier, this Council’s adopted scheme provides for a Basic Allowance of £4,300 per annum with current implementation being £3,150 per annum. In addition members signing an agreement under the Member Connectivity Scheme receive £500 per annum in their first year of office and £250 in subsequent years.

10. The survey undertaken in 2008 although a little outdated now, showed that the average payment made by other shire districts/boroughs in the same region was £4,505 per annum.

11. The current minimum adult wage of £5.93 per hour applied to a 15 hour week results in an allowance of approximately £4,625.

12. We have noted that there has been no increase in Council staff salaries recently and the option of increasing Basic Allowance in line with a staff increase is not therefore open to us.

13. Having regard to the current amount in the adopted scheme, the average amount paid to similar Councils in the same region, the amount achieved by applying the current minimum adult wage to a 15 hour week and the lack of any increase in staff salaries since 2009/10 we are recommending that no change be made to the amount of Basic Allowance.

Supplement to Basic Allowance – Attendance at Meetings/Training Sessions

14. The Council requested the Panel as part of this review to consider inclusion in the Remuneration Scheme of a supplement to the Basic Allowance to be paid to members attending a specified number of meetings/training sessions. This followed the decision not to introduce voluntary claw back where a member is considered to have failed to fulfil their role.

15. We have concluded that there are difficulties in drawing up a workable scheme and we note that the Council has yet to agree a member training programme for 2011/12. We understand that it is possible that future member training will contain an element of “e-learning” which could be undertaken in members’ homes at a time to suit them.

16. We have been unable to find any other authority which makes provision for a supplement for attending meetings/training sessions. Some authorities have tackled poor attendance at training sessions by introducing personal development plans for individual members which are monitored by Group Leaders or a Member Panel.

17. In view of the difficulty of drawing up a workable scheme which complies with statutory requirements which could be monitored efficiently we are recommending that at this time no steps be taken to introduce a supplement to the Basic Allowance, in relation to attendance.

Implementation

18. We have again discussed the Council's level of implementation of the Basic Allowance, currently £3,150 per annum and we are again recommending that this be reviewed by the Council as this sum is considerably less than the amounts paid to councillors in similar authorities in the same region. Whilst we appreciate the need for restraint in setting the Council's budget and the need to make savings in the current economic climate, we are of the opinion that by paying a Basic Allowance considerably less than similar authorities, there is a danger of undervaluing the role and that this could make it more difficult to attract potential candidates to stand for election in future. Accordingly, we are again inviting the Council to review the level of implementation.

Special Responsibility Allowances (SRAs)

19. The Council's scheme identifies SRAs in common with other authorities, e.g. for the Leader, Cabinet Portfolio Holders, Chairmen of Committees, Panels. The amounts recommended by us in 2008 resulted from multipliers being applied to the recommended amount of the Basic Allowance.

(a) Deputy Portfolio Holders

20. The Council on 2 November 2010 when approving the creation of Deputy Portfolio Holders resolved that the application of SRAs for those positions should be deferred until 2011/12 to allow time for these new positions to be assessed in their initial period of operation.

21. Although the Council made its decision on 2 November 2010 we have noted that councillors were only appointed to the positions on 14 December 2010 and there has been little time therefore to assess the roles being undertaken. We have noted the model job description agreed with the Council for these positions. We are proposing that no Special Responsibility Allowance be paid to Deputy Portfolio Holders at present and that the position be reviewed again in the future when the role being undertaken can be assessed.

(b) Licensing Sub-Committee Chairmen

22. As part of our last review, we resolved that having regard to the increased number of meetings of Licensing Sub-Committees and the nature of business undertaken at those meetings, the Council be asked to give further consideration to the way in which the Chairmen of the Sub-Committees were elected to enable consideration to be given to the payment of a Special Responsibility Allowance.

23. In response the Council decided to appoint a Panel of six Licensing Sub-Committee Chairmen from among members of the Licensing Committee to preside over Sub-Committee meetings by rota.

24. We have been informed that since the appointment of six members at the Annual Council meeting in May 2010 there have been nine meetings of Licensing Sub-Committees and five of the six members have presided over meetings. One member has presided over three meetings, two members have each presided over two meetings and two members have each presided over one meeting. At the time of preparing our report one

member had yet to preside over a meeting but was due to undertake the role at the next scheduled meeting.

25. We have attended meetings of Sub-Committees during recent months to witness the role of Chairmen at these meetings. One Member of the Panel has also attended a training session for members and officers on Licensing law etc.

26. We initially met Councillor Richard Morgan, an experienced Magistrate to discuss the former role of JPs and the current role of councillors in relation to licensing issues.

27. We came to the conclusion that there were grounds for granting a Special Responsibility Allowance for this role. However, we remained undecided about the size and distribution of any SRA and decided to consult the six Licensing Sub-Committee Chairmen to seek their views on the role of being undertaken and the manner in which any SRA might be allocated.

28. The average payment to the Chairmen of Licensing Sub-Committees in the same region is £3,820. Amounts paid by other Essex authorities vary between £1,579 and £8,226. Some of the authorities have Sub-Committees which are not reflected in the 2008 survey and in some authorities the Chairman of the Licensing Committee is also the Chairman of the Sub-Committee.

29. We have concluded that the role of Licensing Sub-Committee Chairmen is similar to the role of an Area Plans Sub-Committee Chairman. Accordingly, we are recommending a total SRA of £3,225 per annum. Taking account of the views of the current six Licensing Sub-Committee Chairmen we are further recommending that the amount be allocated equally between the six members appointed as Chairmen.

30. If the Council adopt our recommendation for the payment of an SRA it will be necessary to decide the level of implementation having regard to the fact that Area Plans Sub-Committee Chairmen currently receive £2,362 per annum.

Special Responsibility Allowances

31. Apart from recommending a Special Responsibility Allowance for Licensing Sub-Committee Chairmen we are proposing that no change be made to the amounts of other Special Responsibility Allowances having regard to the similarities and amounts of Special Responsibility Allowances in the Council's current adopted scheme and those of similar authorities in the same region as the Council.

Member Role Accountability Statements

32. We have been informed that the Council's Constitution and Members' Services Scrutiny Panel at a meeting on 9 November 2010 considered revised draft Member Role Accountability Statements for the various member roles undertaken at the Council.

33. We understand that the Scrutiny Panel agreed that statements based on models produced by the Improvement and Development Agency should be adopted and that the statements which were submitted to the meeting on 9 November 2010 should be revised for consideration at a future meeting of the Scrutiny Panel. We have noted that once the statements have been adopted by the Council they will be referred to us to assist in making recommendations in relation to future allowances.

Co-optee Allowances

34. The Council on 20 April 2010 adopted our recommendation that the allowance paid to the Chairman of the Standards Committee and other independent members of that Committee who chair Sub-Committees should be reviewed in order to recognise the new local assessment regime and the increased workload arising therefrom.

35. However, shortly after the General Election, the Coalition Government announced that it would abolish Standards for England (the national body). At that time it was assumed the announcement related to the central body only but it is now clear that the proposal is to abolish the whole standards regime applicable to councillors in England including the Members' Code of Conduct, Standards Committees in their current guise, Standards for England and the First Tier Tribunal (Local Government Standards for England).

36. The timescale is uncertain as the proposal requires legislation which is included in the Localism Bill currently before Parliament. If and when the proposals are enacted, the determination of all outstanding cases at whatever level at that time will be the responsibility of Standards Committees. Once those cases have been determined the current standards regime will cease. We understand that the Council will be able to continue with the Standards Committee if it wishes but that the role of that Committee will be significantly different as there will be no requirement to include any independent members on the Committee.

37. Pending clarification of the timescale for the abolition of the current complaints regime and the future role, if any, agreed by the Council for a Standards Committee we have deferred undertaking any further work in relation to reviewing the allowances paid to independent members of the Standards Committee.

Travelling Allowances

38. The Council's current scheme applies the same rates as those paid to officers, in common with many other authorities. These are reviewed nationally on an annual basis. At present the rates are 46.9p per mile for use of a vehicle not exceeding 999cc; 52.2p per mile for use of a vehicle not exceeding 1199cc; and 65p per mile for use of a vehicle exceeding 1199cc. The Council's scheme also provides for the payment of some extra pence per mile for carrying passengers. The scheme makes provision for a bicycle allowance of 65p per mile.

39. Travelling allowances are payable in respect of "approved" duties which are defined in the scheme.

40. The current scheme provides that in relation to travel to meetings outside of the District or by members' resident outside the District, claims irrespective of the mode of travel shall not exceed the lower of:

- (a) first class return fare plus underground and other fares from station to destination; or
- (b) the appropriate car mileage.

41. We have been informed that following a request for information under the Freedom of Information Act, a local resident has suggested that reference to first class rail travel is inappropriate in the current economic climate. He continued that Council taxpayers should be confident that they do not have to fund unnecessary costs or extravagance at the present time.

42. We agree with the views of the local resident and are recommending that reference to first class rail return fare should be removed from the Council's scheme.

Subsistence Allowance

43. The Council's current rates mirror the rates paid to officers which are: not exceeding £6.72 for breakfast; not exceeding £9.28 for lunch; not exceeding £3.67 for tea; not exceeding £11.49 for evening meal. These officer rates have previously been reviewed annually and changes have been reflected in the Council's scheme.

44. We were advised that following a review of the rates of subsistence paid to officers new rates are to apply as follows:

Breakfast up to £3;

Lunch up to £5 (less the average meal cost of £3.50);

Evening meal up to £11.77 (less the average meal cost of £3.50).

45. We are recommending that the subsistence payments to councillors should continue to mirror the officers' rates and are recommending accordingly.

Carers' and Childcare Allowances

46. The Council's scheme provides for a childcare/dependant carers' allowance payable at a rate of £8.39 per hour with a maximum of four hours imposed on any one claim.

Allowances are not payable in respect of carers who are members of the councillor's immediate and close family, i.e. parents, children, spouses, co-habitees or members of the same household as the councillor.

47. We have been informed that to date no member of the Council has received this allowance and we see no need to review the amount provided in the scheme.

State Benefits

48. The Council asked us to consider and report on the effect of Member Allowances on State Benefits.

49. The Local Government Information Unit publish a booklet entitled "Councillors' Tax and Benefits". This clearly states the law which is that 'The Basic Allowance and any SRA, co-optees/childcare/dependant carers' allowance' received by a councillor count as earnings for benefit purposes and taxable income for income tax purposes.

50. We wish to draw the attention of councillors to this publication, a copy of which has been placed in the Members' Room.

Report to the Constitution and Members Services Standing Scrutiny Panel

Agenda Item 8



SCRUTINY



Epping Forest District Council

Date of meeting: 27 July 2011

Portfolio Holder: Leader

Subject: Council Procedure Rules – Reports on Outside Organisations

Officer Contact for further Information: Ian Willett (01992 564243)

Democratic Services Officer: Mark Jenkins (01992 564607)

Decisions Required:

To consider whether reports by representatives on outside bodies should only be submitted in writing and, if so, to recommend an amendment to Council Procedure Rules.

Report

1. Council Procedure Rule 2 sets out the order of business at ordinary Council meetings.
2. Paragraph (ix) states that the Council will:

"receive reports about and receive questions and answers on the business of joint arrangements and external organisations.
3. The Panel will note that the nature of the report (whether oral or written) is not specified. The Panel's attention is drawn to reports by the Overview and Scrutiny Committee Chairman and Portfolio Holders at Council meetings under Rule 2 (viii) which are required to be in writing and therefore circulated with the Council agenda. This is because under Rule 11.1, those reports can be the subject of questions without notice by other Councillors.
4. The Panel asked that the need for written reports under 2(ix) should be considered. If this is supported, the word "written" should be inserted before "reports" in the first line. This change to the Constitution requires the approval of the Overview and Scrutiny Committee and the Council.

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