

**EPPING FOREST DISTRICT COUNCIL  
NOTES OF A MEETING OF CONSTITUTION AND MEMBERS SERVICES SCRUTINY  
STANDING PANEL  
HELD ON TUESDAY, 8 NOVEMBER 2011  
IN COMMITTEE ROOM 1  
AT 7.00 - 9.15 PM**

- Members Present:** D Stallan (Chairman), D C Johnson (Vice-Chairman), R Cohen, J Markham, Mrs M McEwen, J Philip, Ms S Watson and Mrs J H Whitehouse
- Other members present:** A Watts
- Apologies for Absence:** R Morgan, B Rolfe and Mrs M Sartin
- Officers Present** I Willett (Assistant to the Chief Executive), S G Hill (Senior Democratic Services Officer), S Lekha (Office Services Manager) and M Jenkins (Democratic Services Assistant)
- By Invitation** R Thompson (Co-Opted Member of the Audit and Governance Committee)

**29. NOTES OF THE LAST MEETING**

**RESOLVED:**

That the notes of the last meeting of the Panel held on 4 October 2011 be agreed.

**30. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)**

It was noted that there were no substitute members present at the meeting.

**31. DECLARATION OF INTERESTS**

There were declarations of interest made pursuant to the Member's Code of Conduct.

**32. 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

This report was being submitted to the January 2012 Panel meeting.

- (b) Item 9 Planning/Covenants – Council Responsibilities

This report was being submitted to the January 2012 Panel meeting.

- (c) Item 11 Review of Petitions – Change in Legal Requirements

It was advised that Government legislation was pending on petitions. A date for a report would be announced in due course.

(d) Items 18 and 19 Housing Appeals and Review Panel – Terms of Reference and Housing Appeals and Review Panel Order of Business

A report was being submitted to the January 2012 Panel.

It was advised that the Terms of Reference for the Audit and Governance Committee would be reviewed by the committee next year and that there may be recommended changes to the Constitution as a result.

### **33. AUDIT AND GOVERNANCE COMMITTEE - APPOINTMENT OF PORTFOLIO HOLDER ASSISTANTS**

At the last Panel meeting, the Panel agreed provisional proposals for reviewing the Constitution of the Audit and Governance Committee clarifying whether a Portfolio Holder Assistant could be a member of that body. The Panel also consulted the Audit and Governance Committee on the proposals before reporting to the Overview and Scrutiny Committee and the Council on changes to the Constitution. The Audit and Governance Committee reviewed the Panel's proposals at its meeting on 22 September 2011. The Committee accepted that on a trial basis of one year, its membership could include Portfolio Holder Assistants with the exception of any assistants dealing with finance.

The Committee had made the following points:

(1) there was currently no legal rule excluding Portfolio Holder Assistants, however there was a preference to avoid conflicts of interest which might arise.

(2) doubts were expressed that the Panel's comments regarding the degree of involvement in the portfolio and the particular skills of individuals really did offset the possible damage to the public perception of whether the committee was truly independent.

(3) clear advice on conflicts of interest was required so that Portfolio Holder Assistants who had been involved in matters to be discussed by the committee knew exactly how to respond.

(4) worries were expressed that with a membership of only 5 the withdrawal of a Councillor due to a conflict of interest would reduce the committees to 4 members or less.

(5) it was acknowledged that the involvement of Portfolio Holder Assistants might vary greatly between portfolios and individual topics.

(6) it was accepted that the committee should be able to use the talents of individual members and reducing the pool of councillors available by excluding portfolio holder assistants, could be counter-productive.

The Council's External Auditor had attended the meeting and commented that any special skills contributed by councillors to the work of the Audit and Governance Committee could outweigh a Portfolio Holder Assistant being a member.

Following discussion, the Panel felt that:

- (a) Portfolio Holder Assistants serving on the Audit and Governance Committee should have regard of prejudicial interests they may have in relation to their portfolio and that this proposal should be reviewed after a year;
- (b) Councillors appointed to the Audit and Governance Committee should not be members of the Cabinet, Cabinet Committees or any scrutiny panel appointed by the Overview and Scrutiny Committee with responsibility for reviewing the Council's finances or financial procedures;
- (c) The Standards Committee should issue advice to Portfolio Holder Assistants on how these conflicts of interest be dealt with;

The Panel noted that the Audit and Governance Committee intended to conduct a review of its own Constitution including the following specific matters:

- (i) terms of appointment for independent members;
- (ii) method of appointing Councillor members of the committee;
- (iii) increasing the size of the committee;
- (iv) whether there should be a majority of independent members; and
- (v) whether there be separate Audit and Governance Committees.

**RECOMMENDED:**

- (1) That a report be submitted to the Council recommending as follows:
  - (a) that Portfolio Assistants, except those involved with a Portfolio dealing with the Council's finances, be eligible for appointment to the Audit and Governance Committee, subject to careful consideration by the Councillor concerned of the need to declare a prejudicial interest in any matter relating to the relevant Portfolio which comes before that Committee;
  - (b) that the proposal set out in (a) above be reviewed after one year or if there is a change either in the roles of Portfolio Holder Assistants of the Audit and Governance Committee;
  - (c) that the designation "Deputy Portfolio Holder" be changed to "Portfolio Holder Assistant;" and
  - (d) that paragraph 11.6 (a) (Councillor members) of Article 11 of the Constitution (Audit and Governance Committee) be amended to read as follows (changes in bold text underlined):

"11.6 (a) (Councillor members)

Councillors appointed to the Audit and Governance Committee may not also be members of the Cabinet, and Cabinet Committee or any Panel appointed by the Overview and Scrutiny Committee with responsibility for reviewing the Council's finances or financial procedures.

A Portfolio Holder Assistant (other than any assistant involved in any portfolio dealing with the Council's finances) appointed by the Leader of the Council shall be eligible for appointment to the Committee."

(e) that the Standards Committee be asked to issue advice to Portfolio Holder Assistants on how such conflicts of interest should be dealt with and to consult with the Audit and Governance Committee before it is issued;

(2) That the proposed review by the Audit and Governance Committee of its own constitution including the following specific matters be noted:

(a) terms of appointment for independent members;

(b) method of appointing Councillor members of the Committee (including pro rata rules and appointment by Council rather than political groups);

(c) whether the Committee should be increased in size;

(d) whether there should be a majority of independent members; and

(e) whether there should be separate Audit and Governance Committees;

(3) That any review of the Constitution which results from (2) above be added to the work programme for this Panel; and

(4) That the Audit and Governance Committee be advised of this Panel's view that the number of its members should be increased.

#### **34. REPORTING BY SCRUTINY PANEL CHAIRMEN AT COUNCIL MEETINGS**

The Panel received a report from the Assistant to the Chief Executive regarding Reporting by Scrutiny Panel Chairmen at Council Meetings.

The Panel had asked for a review of the presentation of Overview and Scrutiny reports at Council meetings. The Standing and Task & Finish Scrutiny Panels had the status of sub-committees of the Overview and Scrutiny Committee as they were appointed by the Committee and reported on their work programmes and the progress they were making. Panels did not normally report to the Council unless specifically authorised to do so by the committee.

Most detailed work carried out by Overview and Scrutiny was conducted through the Standing and Task and Finish Panels. The Constitution envisaged that the Overview and Scrutiny Committee would effectively manage the work of those panels, agreeing their work programme and receiving progress reports.

It was suggested that Panel Chairmen, rather than the Chairman of the Overview and Scrutiny Committee, who had the detailed knowledge should present these reports and answer any subsequent questions from members. However the Overview and Scrutiny Committee Chairman should not be undermined to such an extent that the position was perceived as being less significant than the Cabinet members.

#### **RECOMMENDED:**

(1) That a report be submitted to the Overview and Scrutiny Committee recommending as follows:

(a) that the principle of Scrutiny Panel Chairmen presenting reports at Council meetings be approved;

(b) that Overview and Scrutiny Procedure Rules 12(3)(h) (Standing Scrutiny Panels) and 13(3)(h) (Task and Finish Scrutiny Panels) be amended to read as follows:

“be able, after consideration by the Overview and Scrutiny Committee, to report to the Council, the Cabinet, a Cabinet Committee, a Portfolio Holder or any other Council body;”

(c) that Overview and Scrutiny Procedure Rules 12(4) and 13(3) be further amended by the addition of the following sub paragraphs:

“(i) in the circumstances set out in (h), the report shall be submitted in the name of the Panel and presented by its Chairman, unless the work of more than one Scrutiny Panel is involved, in which case any report to another Council body will be in the name of the Overview and Scrutiny and presented by its Chairman;”

(j) in the event that the submission of a Panel report to another Council body is required such that it cannot be considered by the Overview and Scrutiny Committee in accordance with paragraph (h) above, the panel report may proceed for consideration subject to prior consultation with the Chairman of that Committee as to the reasons for urgency.”

(d) That, at Council meetings, the written report of the Chairman of the Overview and Scrutiny Committee be dealt with prior to the reports by the Committee or any of its Panels and grouped under a single item relating to Overview and Scrutiny business; and

(e) That the Assistant to the Chief Executive be authorised to make any other consequential amendments to the Constitution arising from the above changes.

### **35. MEMBER'S DESPATCH - REVIEW**

The Panel received a report from the Assistant to the Chief Executive and Business Manager, Corporate Support Services regarding the Member Agenda Despatch Arrangements – Review Report.

The Panel had asked for a review on member despatch arrangements. Agendas, minutes and similar documents were co-ordinated by Democratic Services in the Office of the Chief Executive. All directorates were involved in producing reports destined for member consideration. Printed copies of agendas were produced in the Reprographics Section of Corporate Support Services Directorate (CCS) and despatched by the Administration Section of the same Directorate.

Legal requirements shaped the despatch arrangements, two statutory timetables applied to all formal meetings of the Council, which were:

(a) five clear days' notice of meetings must be given to the public; and

(b) despatch of agenda papers to Councillors and availability to the public must be at least five clear days before a meeting

Despatch of paper copies of agenda took place on Tuesdays and Fridays and provided five clear days notice for meetings held in the early part of the second week after despatch (Tuesday) and the latter part of that week (Friday). The “clear days” must exclude the following:

- (i) the date of despatch
- (ii) the date of the meeting
- (iii) weekends; and
- (iv) bank or public holidays

No business may be transacted at a meeting if the five clear days’ notice had not been given. Any decisions in these circumstances could be at risk of challenge, probably in the courts.

Messenger delivery was approved by the Council in 1998, and from April 1999 one delivery was made per week. In 2005 this increased to two deliveries per week. Since the current messenger delivery arrangements were introduced, postal charges had changed, the Tuesday despatch was generally lighter and was now cheaper to post than using the messenger. The Friday despatch was usually heavier and it was more economical if messenger delivery was maintained.

The CSS Admin Office had been monitoring member’s despatches since January this year as a messenger concerned was retiring in mid-September 2011. This post was currently vacant and despatch arrangements had been evaluated in view of the recruitment restrictions. These alternatives identified were a combination of posting and hand delivery by messengers which could be possible by either:

- Recruiting a member of staff for one day a week for a Friday messenger despatch
- Using the other two part time messengers to work on Fridays and hand deliver the weekly despatch with a posted despatch on Tuesdays. However, in the case of annual leave and/or sickness the despatches would have to be posted on the Friday
- Posting out despatches on both despatch days using Royal Mail

The average cost for the internal Council messenger per “member drop” was £1.14 for a full 58 member run (£66.42 – 58 members) compared with a local external courier company which would charge £5 per “member drop” making the total a much more expensive £290.00. Salary costs at two days (Tuesday and Friday) per week was a cost of £5,351.71 per annum. Reduced to one day per week (Friday) despatch, £2,675.85 per annum.

The preference for the Corporate Support Services would be for a posted despatch to members on Tuesdays and messenger delivery on Fridays if messenger service costs were reduced. This would contribute to a cost saving of £3,000 (DDF) to next year’s budget. With regard to agendas which went to all members, such as the Cabinet and the Overview and Scrutiny Committee, it was felt that many members who received these agendas did not attend these meetings. It was recommended

that this issue be examined in the next year. The Chairman referred to decisions made when there was a major review of Overview and Scrutiny in 2004-05 when it may have been decided to retain circulation of full paper copies of those agenda to keep all members aware of what each body was dealing with and to assist with the Call-In arrangements. It was noted that some members did need a hard copy agenda because they did not have access to a computer or had a disability, requiring paper copies.

A new system was being developed by Modern.Gov, the District Council's Committee Management System providers, by which agenda was put onto an Apple device ready for members to bring to meetings. It was possible to annotate documents with notes taken by members at the meetings. It had the potential to replace the traditional committee despatch arrangements. It did have implications in terms of implementation, particularly funding, legal assessment of the LGA72, and technology aspects in terms of supply points around the Civic Offices.

**RECOMMENDED:**

- (1) That the changes being made by the Director of Corporate Support Services in respect of member postal despatches be supported, namely:
  - (a) postal despatch – Tuesday each week; and
  - (b) messenger delivery – Friday each week;
- (2) That the Portfolio Holder for Support Services be advised of these changes which should achieve a DDF saving of £3,000 per annum in 2012/13 so that this figure can be incorporated in the draft budget;
- (3) That the Portfolio Holder be encouraged to undertake a wider review of messenger/administrative and related services with a view to making further economies in future years;
- (4) That the issue of sending the Cabinet and the Overview and Scrutiny Committee agendas to all members be examined by the Panel;
- (5) That the question of making use of new technology for members' agenda and meeting arrangements be included in the Work Programme for this Panel in 2012/13; and
- (6) That, pursuant to (4) above, legal advice be obtained on the current provisions of the Local Government Act 1972 in regard to paper copies of agenda and whether electronic despatch arrangements compromise the Council's responsibilities in this regard.

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

The following reports would be forwarded to the forthcoming Overview and Scrutiny Committee:

- Audit and Governance Committee – Appointment of Portfolio Holder Assistants;
- Reporting by Scrutiny Panel Chairmen at Council and other Meetings; and

- Member's Despatch - Review

### **37. FUTURE MEETINGS**

The next programmed meeting of the Panel was scheduled for Monday 20 February 2012 at 7.00p.m. in Committee Room 1.

Due to the Panel's workload Members agreed to an extra-ordinary meeting in March or April 2012. However, since then officers have found that this extra meeting should be held in January 2012. Members agreed to the following date for the extra ordinary meeting:

- Monday 23 January 2012