

## Scrutiny Standing Panel Agenda



### **Constitution and Members Services Scrutiny Standing Panel Monday, 20th February, 2012**

**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](mailto: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

**SUBSTITUTE NOMINATION DEADLINE:**

**18:00**

- 1. APOLOGIES FOR ABSENCE**
- 2. NOTES OF THE LAST MEETING (Pages 5 - 12)**

The last scheduled meeting of the Panel on 26 January 2012 was cancelled, the notes attached are for the meeting which took place before this on 8 November 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 13 - 16)**

(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.

As this is the last panel meeting of the current year, it will be necessary to deal with those items which require a decision at the March Council meeting.

It is suggested that the following items should be dealt with at this meeting;

- Item 7 – Housing Appeals and Review Panel – Terms of Reference
- Item 8 – Review of Officer Delegation
- Item 9 – Review of Financial Regulations
- Item 10 – Review of Annual Council Arrangements
- Item 11 – Webcasting – Further Report

However if members wish to deal with any other items they should indicate accordingly. Any items not dealt with tonight would then carry forward into next year's Work Programme.

**6. PROGRAMME OF WORK 2012/13**

The OSC is about to formulate next year's OS work plan incorporating a programme for this Panel. The following is a proposed programme of work for the Panel in 2012/13:

- (a) Complaints Panel – Jurisdiction;
- (b) Contract Standing Orders – two review items;
- (c) Review of May elections;
- (d) Review of November elections;
- (e) Review of Officer Delegation;
- (f) Electronic Delivery of Agenda;
- (g) Employment Procedure Rules – Revision;

(h) Review of Substitutions at Meetings – report due in June 2012; and

(i) Review of Petitions – Change in legal requirements

The Panel is asked to consider any other items which they wish to add to the Work Programme.

**7. HOUSING APPEALS AND REVIEW PANEL - TERMS OF REFERENCE (Pages 17 - 20)**

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

**8. REVIEW OF OFFICER DELEGATION (Pages 21 - 26)**

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

**9. REVIEW OF FINANCIAL REGULATIONS (Pages 27 - 32)**

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

**10. APPOINTMENTS AT ANNUAL COUNCIL - REVIEW (Pages 33 - 48)**

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

**11. WEBCASTING - FURTHER REPORT (Pages 49 - 56)**

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

**12. REVIEW OF MEMBER REPRESENTATION ON OUTSIDE BODIES (Pages 57 - 72)**

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

**13. CIRCULATION OF AGENDA - FOLLOW UP REPORT (Pages 73 - 74)**

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

**14. PLANNING/COVENANTS - COUNCIL RESPONSIBILITIES (Pages 75 - 78)**

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

**15. 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.

**16. FUTURE MEETINGS**

The next programmed meeting of the Panel was Tuesday 26 June 2012 at 7.00p.m. in Committee Room 1 and then on:

(a) Tuesday 25 September at 7.00p.m. – Committee Room 1;

- (b) Tuesday 4 December at 7.00p.m. in Committee Room 1; and
- (c) Tuesday 26 March 2013 at 7.00p.m. in Committee Room 1.

**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**

<b>Members Present:</b>	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
<b>Other members present:</b>	A Watts
<b>Apologies for Absence:</b>	R Morgan, B Rolfe and Mrs M Sartin
<b>Officers Present</b>	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)
<b>By Invitation</b>	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

# Agenda Item 5

## TERMS OF REFERENCE - STANDING PANEL

<b>Title: Constitution and Member Services</b>
<b>Status:</b> Standing Panel
<b>Terms of Reference:</b>  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.
<b>Chairman:</b> Cllr David Stallan

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

<b>Item</b>	<b>Report Deadline/Priority</b>	<b>Progress / Comments</b>	<b>Programme of Future Meetings</b>
(1) New panel meeting dates for 2011/12	30 June 2011	<b>COMPLETED</b>	30 June 2011; 27 July; 4 October (Extra-Ordinary Meeting); 8 November; 23 January 2012 Cancelled; and 20 February
(2) Review of Referendum/Elections – May 2011	30 June 2011	<b>COMPLETED</b>	
(3) Complaints Panel – Terms of Reference	30 June 2011	<b>COMPLETED</b>	
(4) Substitutions at Meetings	30 June 2011	<b>COMPLETED</b>	
(5) Council Meetings – Member reports on outside bodies	27 July 2011	<b>COMPLETED</b>	
(6) Report of District Remuneration Panel	4 October 2011	<b>COMPLETED</b>	
(7) Statutory Review of Polling Stations	4 October 2011	<b>COMPLETED</b>	
(8) Review of Membership of Audit and Governance Committee – Deputy Portfolio Holders	8 November 2011	<b>COMPLETED</b>	
(9) Reporting at Council meetings by Scrutiny Panel Chairmen	8 November 2011	<b>COMPLETED</b>	
(10) Member's Despatch - Review	8 November 2011	<b>COMPLETED (Follow up report regarding circulation of agenda – 20 February 2012)</b>	

(11) Report on Webcasting	20 February 2012	Report submitted to October 2011 Panel.	
(12) Planning/Covenants – Council Responsibilities	20 February 2012	Discussed at the October panel. Revised report submitted to this meeting.	
(13) Circulation of Agenda – Follow Up	20 February 2012	Preliminary scoping at the meeting in July 2011.	
(14) Housing Appeals and Review Panel – Terms of Reference	20 February 2012	Submitted to this meeting	
(15) Housing Appeals and Review Panel Order of Business	20 February 2012	Submitted to this meeting	
(16) Review of Petitions – Change in Legal Requirements	TBA	This item will be discussed next year.	
(17) Review of Officer Delegation	20 February 2012	Submitted to this meeting	
(18) Review of Financial Regulations	20 February 2012	Submitted to this meeting	
(19) Review of Annual Council arrangements	20 February 2012	Submitted to this meeting	
(20) Review of Member Representation on Outside Bodies	20 February 2012	Submitted to this meeting	





## **Report to the Constitution and Members Services Standing Scrutiny Panel**

**Date of meeting: 20 February 2012**

**Subject:** Housing Appeals and Review Panel – Terms of Reference

**Officer contact for further information:** Graham Lunnun (01992 56 4244)

**Committee Secretary:** Mark Jenkins (01992 56 4607)

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### **Decisions Required:**

- (1) To consider if the terms of reference of the Housing Appeals and Review Panel should be changed to provide for (a) an applicant/appellant to present their case and answer questions after the appropriate Housing Officer and (b) appeals against the banding of an applicant, in accordance with the Housing Allocations Scheme being removed from the terms of reference; and
- (2) That, if the proposals are agreed a recommendation be made for appropriate changes to the terms of reference of the Housing Appeals and Review Panel and the Constitution.

### **(a) Order of Presentation of Cases to the Panel**

#### **Introduction**

1. The current order of business for consideration of cases by the Housing Appeals and Review Panel provides for the applicant/appellant to present their case and answer questions first, followed by the appropriate Housing Officer presenting his/her case and answering questions. Whilst this follows the order of most appeal proceedings it is considered that it does not lend itself particularly well to meetings of the Housing Appeals and Review Panel.
2. An applicant/appellant normally attends meetings to present their case without being represented by a professional advocate. Despite being advised in advance of the meeting of the procedure to be adopted and the Chairman of the Panel, as part of his opening remarks, attempting to put an applicant/appellant at ease they appear frequently to be overwhelmed facing a Panel of normally five members in a fairly formal setting.
3. As a result, since an applicant/appellant has to present their case first, many struggle to follow the procedure and present a reasonable case. Often it is not until replies are given to questions from the Housing Officer and members of the Panel that the full extent of the applicant's/appellant's case becomes apparent.
4. A change in the order of proceedings, with the Housing Officer presenting his/her case first, would have the following benefits:
  - (a) the Housing Appeals and Review Panel will have the benefit of receiving the full facts of the case at the outset as these are set out in the officer's report; this will enable members to understand better the submissions made subsequently by the applicant/appellant;
  - (b) the applicant/appellant will have time to settle in the meeting before being expected to

address the Panel; will have a better appreciation of the proceedings having witnessed the way in which the officer presents his/her case and answers questions on it; and, should be better prepared when it comes to their turn to present their case.

5. The Director of Corporate Support Services has been consulted on the proposed change and has no objection. The only observation she makes is that some professional representatives (eg. solicitors and barristers), who will be used to an appellant presenting their case first in an appeal environment, may object to the proposed change in the order of business. If members agree with the proposed change it is suggested that, if requested by the applicant/appellant or their representative, the Chairman can agree to the applicant/appellant presenting their case first.

6. In any event, the proposed revised procedure still maintains the discretion to reverse the order in which the case of the officer and the applicant/appellant are presented, provided that both parties agree.

### **Views of the Members and Substitutes of the Housing Appeals and Review Panel**

7. The Housing Appeals and Review Panel considered the proposed changes at its meeting on 8 September 2011 and took account of views expressed previously by members and substitutes who were not present at the meeting.

8. There was not a consensus of view although the majority view expressed was in support of the proposed change and the proposal was referred to this Panel for consideration.

9. Members supporting the proposals accepted the benefits set out in paragraph 4 above. Members not in agreement with a change felt that at present in many cases when the officer puts his/her case the expression on the applicant's/appellant's face is recognition that their grounds for review/appeal are a lot weaker than they thought. They felt that for applicants/appellants to be given this realization before they have even started their case would be even more intimidating than coming in to the meeting and having their say first. Also, sometimes an applicant/appellant says something which causes a Panel member to want to question the officer about it and this opportunity could be missed under the new proposals.

### **Constitution**

10. If the proposals are supported it is recommended that the following changes be made to the terms of reference of the Housing Appeals and Review Panel and the Constitution;

- That paragraph (6) of the Terms of Reference of the Panel be amended to read:

“(6) In relation to appeals or reviews at which the appellant's/applicant's case is presented in person or by a representative, subject to (7) below, the hearing shall be conducted in the following order:

- (a) Chairman's introductory remarks;
- (b) Presentation of the Officer's case;
- (c) Questioning by the appellant/applicant (or representative);
- (d) Questioning by members of the Panel;
- (e) Presentation of the case of the appellant/applicant;
- (f) Questioning by the Officer (or representative);
- (g) Questioning by members of the Panel;
- (h) Officer to raise any additional issues arising from the presentations or to clarify any matters previously raised;

- (i) Appellant/applicant to raise any additional issues arising from the presentations or to clarify any matters previously raised;
  - (j) Panel considers its findings in the absence of the appellant/applicant and the Officer;
  - (k) The decision of the Panel will be conveyed to the appellant/applicant and the Officer in writing;
  - (l) The Panel shall have the discretion to reverse the order in which the cases of the Officer and the appellant/applicant are presented, provided that both parties agree.
- That a new paragraph (7) be inserted as follows:
- (7) If requested by the appellant/applicant or their representative, the Chairman may agree to (b)-(d) above taking place after (e)-(g) and to (h) and (i) being reversed”
- That the remaining paragraphs be renumbered accordingly.

## **(b) Appeals against the Banding of an Applicant**

### **Introduction**

11. Following concern about the cost and member and officer time involved with housing appeals (both before and at meetings) about some relatively minor issues, the Council in April 2010 agreed that from the commencement of the municipal year 2010/11 the terms of the Housing Appeals and Review Panel should be amended to allow appeals and reviews only in respect of specified issues.

12. One of the issues recommended by officers for removal from consideration by the Panel was appeals about the banding of an applicant in accordance with the Council's Housing Allocations Scheme. However, members did not accept that recommendation and the Panel continues to consider such appeals.

13. Since May 2010, the Panel has considered seven appeals about the banding of an applicant including five appeals since August 2011. In all cases the Panel has upheld the officers' decision and dismissed the appeal.

14. In such cases the role of the Panel is restricted to determining whether an appellant has been placed in the correct Band of the Allocations Scheme by officers having regard to the facts.

15. The majority of these appeals concern priority given for medical conditions and as the Scheme specifies that medical priority is determined by the Council's Medical Adviser, the Panel has little discretion.

16. Two members have recently supported appellants at meetings of the Panel in relation to appeals against their bandings [and they have advised officers that they found it very difficult to formulate meaningful submissions in view of the restricted role of the Panel in relation to these appeals.](#)

### **Views of the Members and Substitutes of the Housing Appeals and Review Panel**

17. In the light of the recent consideration of these appeals, members and substitutes of the Panel present at the meeting on 26 October 2011 discussed recommending to the Constitution and Members' Services Panel that such appeals should no longer come within the terms of reference of the Housing Appeals and Review Panel. The five members present were unanimous that banding appeals should not be dealt with by the Housing Appeals and Review Panel and that the right of appeal should end with one of the Assistant Directors of

Housing. However, before referring this matter to the Constitution and Members' Services Scrutiny Panel they requested that the views of the other members and substitutes of the Housing Appeals and Review Panel should be sought.

18. Following an exchange of emails all 10 members and substitutes of the Housing Appeals and Review Panel have advised that in their view banding appeals should not be dealt with by the Housing Appeals and Review Panel and that the right of appeal should end with one of the Assistant Directors of Housing.

### **Constitution**

19. If the proposals are supported it is recommended that paragraph 1(i) (the banding of an applicant, in accordance with the Housing Allocations Scheme in being at the time of the decision) be removed from the terms of reference of the Housing Appeals and Review Panel and the Constitution amended accordingly.

## **Report to the Constitution and Member Services Standing Scrutiny Panel**



**Date of meeting:** 20 February 2012

**Subject:** Officer Delegation – 2011/12 Review

**Responsible Officer:** I Willett (01992 564243)  
Assistant to the Chief Executive

**Democratic Services Officer:** Mark Jenkins (01992 564607)  
Democratic Services Officer

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### **Recommendations:**

- (1) That a report be submitted to the Overview and Scrutiny Committee and the Council recommending that the schedule of changes to Council delegation (Appendix 1) be approved; and
- (2) That the changes to executive delegations be incorporated in the Constitution, once these having been signed off by the Leader of the Council.

### **Report:**

#### **1. Introduction**

- 1.1 Each year a cross-Directorate Working Party of Officers carries out a review of Financial Regulations, Contract Standing Orders and Officer Delegation. Every second year a review of contract standing orders is undertaken. These reviews are designed to keep these documents up-to-date and to reflect current statutory requirements and operational needs.
- 1.2 Such delegated authorities are agreed in one of two ways:
  - (a) approval by the Council in respect of Council (i.e. non-executive and regulatory) functions; or
  - (b) approval of the Leader of the Council for Executive (or Cabinet) functions.
- 1.3 This report brings forward updates to the delegation schedule, including those which has already been approved during the last 12 months.

#### **2. Proposed Changes**

- 2.1 The only new change in delegation relates to the detailed wording on tree preservation. These should be recommended to the Overview and Scrutiny Committee and Council. The remainder are executive delegations and have already been approved by the Cabinet and/or Portfolio Holders and will be incorporated in the Constitution once the Leader of Council has reviewed and approved the overall schedule.

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## REVIEW OF OFFICER DELEGATION 2011/12

Delegation Ref	Subject	Existing Wording/ Delegation	Proposed Amendments/ Comment
Schedule 2 Forward Planning and Related Functions Paragraph (2)	Protection of Trees	<p>“Amend, confirm or revoke such orders (i.e. TPOs), subject to reporting any objections regarding the making of the order to the relevant Area Planning Sub Committee for this decision”.</p> <p><b>Delegated to:</b></p> <p><b>Director of Planning and Economic Development.</b></p>	<p><b>ADD:</b> the words “decide not to confirm” after “amend, confirm” in the first line.</p> <p><b>DELETE</b> the words: “subject to reporting any decision not to confirm a contested order” and <b>REPLACE</b> with “subject to reporting any objections regarding the making of the order” in lines 2-4.</p> <p><b>Comment:</b> Current wording does not reflect the present delegation which requires a report to a Sub Committee to be made if a contested order is not confirmed. The current report implies only reporting of objections.</p>
NEW to be numbered EX27	Restrictive Covenants – Houses in Multiple Occupation	None	<p><b>ADD</b> new delegated authority to be numbered EX54 as follows:</p> <p>To agree requests to vary restrictive covenants on former Council houses, in order to grant permission for their use as privately-rented shared accommodation, provided all of the conditions set out in Cabinet Minute 46 – 12.9.11 have been met.</p>

Delegation Ref	Subject	Existing Wording/ Delegation	Proposed Amendments/ Comment
			<p><b>Delegated to:</b></p> <p>Director of Housing</p> <p><b>Comments:</b></p> <p>Cabinet decision on 12.9.11 (Minute 46).</p>
NEW – to be numbered EX40	Off-Street Car Parking Schemes	NONE	<p><b>ADD</b> new delegated authority (to be numbered EX41) as follows:</p> <p>“To submit planning applications for future off-street parking schemes at the appropriate time after the resident consultation exercise”.</p> <p><b>Delegation to:</b></p> <p>Director of Housing</p> <p><b>Comments:</b></p> <p>Cabinet decision on 18 April 2011 (Minute 151 (10)).</p>
EX54	Safer, Cleaner, Greener Legislation – Authorisation of Officers	To delegate appropriate powers to the Director of Environment and Street Scene relating to the management and provision of the Environmental Health Service set out in the attached list of Environmental Health	<p><b>AMEND</b> list of legislation in Appendix B by the addition of Sunbeds (Regulation) Act 2010.</p> <p><b>Comment</b></p> <p>This Act is not currently listed in Appendix B.</p> <p>This Act provides for the regulation of persons in control of sunbed businesses so as to control the age of customers and</p>



Delegation Ref	Subject	Existing Wording/ Delegation	Proposed Amendments/ Comment
		<p>legislation as set out in Appendix B.</p> <p>Delegated to:</p> <p>Appropriate Portfolio Holder.</p>	<p>the issue of safety instructions.</p> <p>NB Approved by Portfolio Holder decision in January 2012.</p>

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## **Report to the Overview and Scrutiny Committee**



**Date of meeting:** 20 February 2012

**Subject:** Review of Financial Regulations

**Responsible Officer:** I Willett (01992 564243)

**Democratic Services Officer:** Mark Jenkins (01992 564607)

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### **Recommending:**

**That a report be submitted to the Overview and Scrutiny Committee and the Council recommending that the schedule of amendments to Financial Regulations set out in Appendix 1 to this report be approved and pages G9-11 be deleted from the Constitution.**

#### **1. Introduction**

- 1.1 This report deals with our annual review of Financial Regulations which is conducted by a cross-directorate Officer Working Party.
- 1.2 The report contains recommendations for one change to Financial Regulations and one consequential amendment to the Budget Procedure Rules in the Constitution.

#### **2. Review of Financial Regulations**

- 2.1 Appendix 1 to this report sets out one proposed amendment arising from this year's review. The Appendix excludes a number of minor textual changes (renumbering, typographical errors and various cross references) which can be made by officers when the Financial Regulations are prepared for publication.
- 2.2 The proposed change relates to virement limits, a virement being a transfer of funding from one budget heading to another.
- 2.3 Currently Financial Regulations set out the arrangements for approval of virements against certain financial limits:
  - (a) Up to £5,000 – Directors subject to no virement between portfolio budgets, to the virement being within the Director's own budgets and to the transfer being within "cost centres";
  - (b) Up to £10,000 – Portfolio Holders, subject to the budget concerned being within the portfolio and to the other conditions as set out in (a) above;
  - (c) £10,000-£100,000 – Cabinet approval;
  - (d) £100,000 – Cabinet and Council

- 2.4 All virements are supervised by the Director of Finance and ICT.
- 2.5 Officers believe that there should be no change to the procedure for virements up to £5,000, save that the term “cost centre” should be amended. It is recommended that the use of this term should be discontinued and the term “budget heading under the same budget page” should be substituted.
- 2.6 This will allow officers a greater degree of flexibility in managing their budgets. The current restriction of increments to within cost centres only is felt to be overly restrictive and necessitates Portfolio Holder involvement for insignificant changes to budgets. Expanding this to budget headings under the same page ensures that the money is still used for a similar purpose. A wider expansion of movement of funding within a directorate as a whole is not proposed as this would allow funds to be used for very different purposes.
- 2.7 A typical budget sheet is enclosed for illustrative purposes (Appendix 2).
- 2.8 As to the other virement limits, no changes are proposed for 2.3(d) but for 2.3(b) and (c), it is recommended that the limit for Portfolio Holder approval be increased to £25,000. This would recognise the role of portfolio holders and reduce references to the Cabinet. Use of portfolio holder decision making is more flexible which, coupled with the redefinition of “cost centres,” will make arrangements easier to operate.
- 2.9 All proposed virements will be reviewed by the Director of Finance and it should be remembered that, as with other portfolio business, Cabinet members can refer a proposed virement to the Cabinet if need be.
- 2.10 The virement rules are published both in Financial Regulations and as an appendix to the Budget Procedure Rules of the Constitution (Pages G9-11). It is considered advisable to publish the information in only one place to avoid confusion. It is therefore proposed to delete the Appendix to the Budget Procedure Rules.

### **3. Next Steps**

- 3.1 If the Panel support the various changes, approval of the Overview and Scrutiny Committee and the Council is necessary before the Constitution is amended.



	<p>centre or between cost centres, for cumulative amounts up to the greater of £10,000 or 2% of gross cost centre expenditure during the year, following notification to the Chief Finance Officer, and subject to the conditions at 4.9 below. These limits are inclusive of amounts vired under 4.4 above, not in addition to.</p> <p>4.7 Cumulative amounts greater than £10,000 or 2%, whichever is the greater, within the same cost centre or between cost centres during the year require the approval of the Cabinet, following a report to the relevant Portfolio Holder in conjunction with the Chief Finance Officer and the Chief Officer. The report must specify the proposed expenditure and the source of funding and must explain the implications in the current and future financial year.</p> <p><b>Responsibilities of the Chief Finance Officer</b></p> <p>4.8 To prepare jointly with the relevant Chief Officer a report to the Cabinet or Council as appropriate, where revenue virements within the same cost centre, or between cost centres within the same portfolio, in excess of the greater of £10,000 or 2% of gross cost centre expenditure are proposed.</p>	<p>Amend “£10,000” to “£25,000” in line 2.</p> <p>Amend “£10,000” to “£25,000”</p>
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	<p>To maintain a list of approved budget headings.</p> <p>To maintain a register of all approved virements.</p> <p>To monitor that any allocation of an approved budget that is a lump sum budget or contingency intended for allocation during the year is in accordance with the purposes for which it was established and the Cabinet approved scheme for its release. Where any proposed allocation falls outside of these conditions, the allocation will be deemed to be a virement and treated accordingly.</p> <p><b>Responsibilities of Cabinet and Council</b></p> <p>4.9 Cumulative virements within a Portfolio greater than £100,000 or 2% of the total portfolio, whichever is the greater, require the approval of the Council, following a report of the Cabinet in conjunction with the Chief Finance Officer and the relevant Chief Officer(s). The report must specify the cumulative expenditure and sources of funding and must explain the service delivery implications in the current and future financial year.</p>	
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## **Report to Constitution and Members Services Standing Scrutiny Panel**

**Date of meeting: 20 February 2012**

**Subject: Appointments at Annual Council - Review**

**Officer contact for further information: Simon Hill Ext 4249**

**Committee Secretary: Mark Jenkins Ext 4607**

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### **Recommendations/Decisions Required:**

- (1) That the Panel consider the operation of the Appointments Panel last year and recommend changes required to Council as thought necessary;**
- (2) That the Panel consider the protocol needs further consideration to either:
  - (i) Reinstate it; or**
  - (ii) delete it; or**
  - (iii) amend its scope; and****
- (3) To consider a suggested change to Article 5 of the Constitution in relation to the nomination of the Vice Chairman appointment to Council;**
- (4) To recommend to Council (if appropriate) 15 May 2012 as the date for the Appointments Panel for 2012;**

### **Introduction for the Panel:**

1. (Senior Democratic Services Officer) Members will recall discussions in 2011 on how the process of the annual meeting could be improved. This resulted in a report to Council which introduced the idea of having an Appointments Panel and made improvements to the process of agreeing nominations for Committee places and Outside Body Appointments.
2. The Council requested that the operation of the new system be reviewed after one year.
3. This report sets out a review of the experiences of last year together with some issues requiring decision on the future operation of the Panel.

### **Report:**

4. The original request to the Panel to look at the operation of the Annual Council meeting covered a number of issues which included briefing information; liaison and consultation between political groups, pro rata on outside organisations

and the process of appointment; simplifying paperwork at the Annual Meeting; suggestions for improvement of the civic ceremonial aspects of the annual meeting and a review of the appointment process of the Vice-Chairman of Council.

5. The final report to Council is attached as Appendix 1 to this report for reference.

### **Operation of the Appointments Panel**

6. Last year we operated the Appointments Panel for the first time. As envisaged last year documentation was circulated by officers prior to the election period. This information comprised:

- (a) A pre-election pro rata exemplification table
- (b) A pro rata advice sheet
- (c) Counsel opinion on calculating pro rata
- (d) New Group Constitution Forms
- (e) Individual group member forms
- (f) Terms of Reference of the Panel (attached for reference – Appendix 2)
- (g) A blank Committee nominations sheet (showing previous years nominations)
- (h) A blank outside organisations sheet for council appointed bodies
- (i) Vice Chairman nomination forms (as appropriate)

7. On the Friday after the election count further information on the post election pro rata position was emailed to members.

8. It had been agreed that the Appointments Panel would meet on 12 May 2011. This did not prove possible as nominations had not been completed in time. The meeting was held on the fall-back date of 17 May. This enabled a supplementary agenda to be circulated prior to Council on 24 May meeting the target set by Council of not having tabled schedules of appointment recommendations.

9. Members are asked whether they wish to recommend any changes to the method of operation of the Panel for this year or indeed whether they believe that the Panel should be the vehicle to bring forward nominations.

### **Protocol on the Allocation of Chairmanships and Vice-chairmanships and Outside Organisations**

10. Members will recall that the protocol (attached Appendix 3) was suspended for the period of one year (except for sections 6(a) to (c) ) to allow the new system to operate. The Panel have been asked to review this element in the light of operational experience.

11. This Panel could recommend:

- (i) To reinstate the protocol; or
- (ii) To continue its suspension for a further year; or
- (iii) As (ii) above with a review during the next year by this Panel; or
- (iv) Recommend the rescinding of the protocol linked to the inclusion of a 'statement of principles' within the Panels Terms of Reference which would have the

effect of limiting the scope of recommendations to Council. For example, the allocation of Chairmanships and Vice Chairmanships

### **Election and Nomination of the Vice Chairman of Council**

12. The appointment of the Vice Chairman of Council is governed by Article 5 of the Constitution. Last year it was agreed that no changes would be made to the nomination process save that nomination forms would come to the Appointments Panel.

13. It is therefore suggested that the words in Article 5.02 (c) be amended to read:

“5.02(c) (c) The process of agreeing a nomination for Vice-Chairman of the Council shall be co-ordinated by the Leader of the Council in consultation with independent members and the Leaders of all political groups **and notified each year to the Appointments Panel for onward recommendation to the Annual Council meeting**”;

### **Date for the Appointments Panel for 2012**

14. It is suggested that Tuesday 15 May 2012 should be the recommended date for the Appointments Panel meeting this year.

15. Group Leaders and Deputies, Senior Management and unaffiliated members have been consulted on last year and any views expressed will be made known

### **Resource implications:**

Budget provision: Nil none required

Personnel: existing

Land: none

Community Plan/BVPP reference: none

Relevant statutory powers: Local Government and Housing Act 1989 sec 15 and 16

Background papers:

Environmental/Human Rights Act/Crime and Disorder Act Implications: none

Key Decision reference: (if required) not a key decision

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**(iii) That, in principle, supplementary tabled schedules of nominations should not be tabled at the Annual Council meeting and that a deadline for nominations be set to ensure that they are made in advance of the Appointments Panel;**

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

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

**(10) That the operation of these new arrangements be reviewed by the Constitution and Members Services Scrutiny Panel after one year.**

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### **Report:**

1. Our Constitution and Members Services Scrutiny Panel has reviewed the process of the annual Council meeting and proposes changes to the constitution and those of a procedural nature. We make a number of recommendations to Council.

### **Proposals for the Creation of an Appointments Panel**

2. Traditionally, a meeting of the Group Leaders has been called a few days after the May elections once pro rata calculations are carried out. The Committee is proposing the creation of an 'Appointments Panel' meeting on a pre-arranged date between the Elections and the Annual or next Council meeting. This Panel would have the following characteristics:

- (i) Timetabled meetings between the election and Annual Council.
- (ii) Receive and recommend appointments to the Annual Council. This would have the effect for formalising the appointments process with only those areas of real contention being passed to Council to vote upon.
- (iii) Its terms of reference to include all appointments made by Council at the Annual meeting (Leader, Ordinary Committees, Chairman/Vice Chairman, outside bodies) and receive those being made by the Leader.
- (iv) As a recommending Panel, it would not be subject to pro rata but would its membership would include representation from all political groups and an open invitation for un-affiliated members to attend and make proposals for seats etc.;
- (v) It would be essential that group representatives have a mandate from their group to make appointments and come armed with relevant nominations;
- (vi) Clear principles and reports from Officers circulated mostly in advance of the elections with only the seats breakdown to be circulated after;
- (vii) Clear mandatory timetable from officers for Council report avoiding the recent practice of tabling nominations at the annual meeting which has created confusion.

3. We have suggested at Annex 1 to this report proposals for the establishment of such a committee and have tried to encompass protections for minority groups and unaffiliated members within their scope. The Council also need to make appropriate appointments to the Panel subject to post-election validation.

4. We have also suggested that this year, to facilitate this new Panel, the existing protocol on the Allocation of Chairmanships and Vice-chairmanships and Outside Organisations be suspended for the period of one year and then reviewed in the light of operational experience.

### **Changes to the Ceremonial Element of Annual Council**

5. We have reviewed the ceremonial procedures at our Annual Meeting. We are suggesting that it is essential that (all) Candidates for Chairman and Vice Chairman should be involved in the planning of the meeting and attend a 'rehearsal' on the afternoon of the meeting. We have considered and discounted a suggestion that the process of signing the declarations of acceptance of office should be made at a desk in front of members in the well of the chamber. We favour a shorter style welcome by the Chairman.

### **Review of Constitution of Political Groups**

6. We are also suggesting some changes to the way Political Groups are formally constituted and members then join those groups. The changes would allow Groups to formally reconstitute themselves each year by notice signed by two (or more) members of the Authority asking to be treated as a political group. Other Group members could then sign an individual form avoiding the need for one form to travel around each group for signature. All forms would need to be lodged with the proper officer by the date of the Appointments Panel for the purposes of pro rata calculation.

### **Appointment of Vice Chairman of the Council**

7. Members have requested a review of the current protocol for the appointment of a new Vice Chairman of the Council each year, examining whether the current system of appointing on merit with candidates being nominated by members of more than one group is appropriate.

8. The current system of appointment is contained within the attached Article 5 of the Constitution. It requires any nomination for the office of the Vice-Chairman to be supported by 12 Councillors drawn from at least two political groups (i.e. this would seem to preclude individuals from being 'the other group'). The onus is on the Leader to co-ordinate such nominations.

9. The Committee have reviewed this protocol and believe that the principle of having cross party support for such an appointment is still appropriate. We are therefore not suggesting any changes to the article but are recommending that nominations are settled by the date of the Appointments Panel.

### **Review**

10. We are suggesting that these new arrangements should be reviewed by the Panel after the period of one year in the light of operational experience.

## **APPOINTMENTS PANEL TERMS OF REFERENCE**

### **1. Title**

The Panel shall be known as the "Appointments Panel".

### **2. Terms of Reference**

(a) To receive and make recommendations to the Annual Council on nominations for the following appointments from political groups and non-affiliated members:

(i) Chairman and Vice Chairman of Council;

(ii) Leader; Deputy Leader and Cabinet members;

(iii) Chairmen; Vice-Chairmen and membership of Cabinet Subcommittees;

(iv) Chairmen; Vice-Chairmen and members of Committees and Sub-Committees (excluding Scrutiny Panels); Panels; Boards Working Groups and similar bodies;

(v) Outside body appointments falling to the Council to fill;

(b) In recommending appointments to the Council, the Panel will:

(i) Propose nominations based on the entitlement of each political group in accordance with the statutory pro rata;

(ii) Ensure that consideration is given to any nominations made by non-affiliated members for any position or appointment;

(iii) Ensure, so as far is practicable, an equitable allocation of Chairmanships and Vice Chairmanships across the political groups or to non-affiliated members having majority support that is not inconsistent with the provisions of the Council's Protocol; and

(iii) Permit schedules of recommended appointments to be circulated to all members prior to the date of the Council meeting.

(c) The Panel shall, in recommending outside body appointments to the Council, do so as to give precedence to local ward members for those that have a 'local' designation and an equitable allocation of places across the political groups of the Council;



### **3. Membership**

- (a) Each statutory Political Group on the Council shall appoint two members from to form the Panel;
- (b) Where an appointed member ceases to be a member of the Council, the appropriate Political Group Leader may nominate a substitute from within their membership;
- (c) All unaffiliated members of the Council shall have the right to attend the Panel meetings and/or submit nominations in accordance with statutory provision.

### **4. Chairman**

- (a) The Chairman of the Panel shall normally be the Leader of the Council but if the Leader is not a member or present, the Chairman shall be determined by the Panel; and
- (b) The Chairman shall be responsible for reporting the recommendations of the Panel to full Council.

### **5. Meetings**

- (a) Meetings of the Panel shall be held as required following elections each Council year at the Civic Offices, Epping at the date and time indicated on the agenda timed so as to enable the prior circulation of their recommendations for nominations to the Council.
- (b) Minutes and agenda of the Panel meetings shall be circulated to the following:
  - Panel Members
  - Group Leaders or Deputy Group Leader not members of the Panel
  - Unaffiliated Members of the Council

### **6. Effect of Nominations**

Nothing in these Terms of Reference precludes any Political Group or non-affiliated member of the Authority from making nominations directly at full Council or from any group or non-affiliated members changing or withdrawing previously made nominations.

### **7. Officers**

The Panel will be supported by the attendance of relevant officers from the Office of the Chief Executive and such other officers as may, from time to time, be required.

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### **7. Officers**

The Panel will be supported by the attendance of relevant officers from the Office of the Chief Executive and such other officers as may, from time to time, be required.

## **PROTOCOL - ALLOCATION OF CHAIRMANSHIPS AND VICE-CHAIRMANSHIPS AND OUTSIDE ORGANISATION PLACES**

### **Purpose of Protocol**

1. To formalise the understandings between political groups represented on Epping Forest District Council in its response to the new constitution required by the Local Government Act 2000.
2. To establish arrangements which secure the allocation of the following Chairmanships on an agreed basis between the political groups:
  - (a) Leader
  - (b) Deputy Leader
  - (c) Chairman and Vice-Chairman of Committees and Sub-Committees (including Scrutiny Committees);
  - (d) Chairmen and Vice-Chairmen of Panels, Boards, Working Groups and similar bodies;
  - (e) Chairmen of Policy Advisory Groups; and
  - (f) Chairmen and Vice-Chairmen of Cabinet Committees.
3. To ensure that the operation of the protocol recognises the statutory requirements and local arrangements approved by the Council as part of its constitution.

### **Statutory and Local Requirements**

4. This protocol will recognise:
  - (a) that the Chairman of the Council shall not be a member of the Cabinet;
  - (b) that no member of a Scrutiny Committee (including its Chairman or Vice-Chairman) shall be a member of the Cabinet;
  - (c) that the Chairman of the Standards Committee and any Sub-Committee thereof shall not be a Councillor;
  - (d) that the Chairman or Vice-Chairman of any Cabinet Committee must be a member of the Cabinet; and
  - (e) that the appointments of Chairmen and Vice-Chairmen of other Council Committees, Sub-Committees, Working Groups, Panels and Boards shall be in accordance with the Council's own rules as set out in the constitution.
5. In making all such appointments, the Council will take account of the legal requirements to ensure that members of the Cabinet must not be involved in any of the activities of the Overview and Scrutiny Committees.

### **Provisions of Protocol - Chairmanships and Vice-Chairmanships**

6. The following provisions shall apply to the operation of this protocol and the making of appointments:
- (a) all appointments shall be made against the requirement to achieve a pro rata allocation of Chairmanships and Vice-Chairmanships between political groups;
  - (b) for the purpose of achieving the requirement set out in (a) above, the calculation of pro rata requirements shall be carried out separately in respect of the total number of Chairman and Vice-Chairman positions;
  - (c) each political group shall have an equal opportunity to submit nominations from its membership for positions of Chairmen and Vice-Chairmen in respect of the bodies covered by this protocol;
  - (d) any political group shall nominate from within its own membership only but shall be free to support the nomination of another political group for any such position;
  - (e) in making nominations for such positions, each political group acknowledges that any of its nominees must command majority support within the Council and that the decision of the Council on any appointment is final;
  - (f) each political group undertakes to enter into discussions with other groups on individual nominees and the number of nominations to be submitted and shall be enabled to withdraw the name of any nominee prior to or at the appropriate Council meeting;
  - (g) notwithstanding the discussions specified under paragraph (c) above, political groups shall retain the right to submit their nominations to the Council for consideration notwithstanding the outcome of the discussions indicated; and
  - (h) the Council and other political groups will acknowledge the right of any political group not to submit a nomination or to withdraw such a nomination after discussion with other groups.

### **Provisions of Protocol - Outside Organisations**

7. The following provisions shall apply to the operation of this protocol for appointments to outside organisations:
- (a) all appointments shall be made by the Council;
  - (b) appointments shall be designated by the Council as "Executive" or "Non Executive";
  - (c) appointments may also be designated as "local" in character in which case, local ward members shall be given precedence.
  - (d) appointments may be designated by the Council as specialist in which case Councillors (irrespective of political group membership) with the appropriate skills, experience or personal qualities shall be given precedence;

(e) after considering the "local" and "specialist" categories, all political groups will agree on an annual basis how many seats are to be allocated to each group taking into account their overall numbers on the Council and their expressed preferences;

(f) in relation to the organisations designated as local, the political group or groups represented in relevant wards shall agree nominations to be put forward; and

(g) all groups will recognise the right, notwithstanding prior discussion required by this protocol, to submit its nominations for consideration by the Council.

#### **Definition of Political Group**

8. For the purposes of this protocol, a political group shall be defined in accordance with the Local Government Act 1989 (i.e. two or more Councillors).

#### **Changes to this Protocol**

9. Any alteration of this protocol shall require the consent of the full Council, with no less than 65% (rounded up to the nearest whole number) of the Council's membership attending that meeting voting in favour.

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## **Report to Constitution and Members Services Standing Scrutiny Panel**

**Date of meeting: 20 Febraury 2012**

**Subject: Webcasting Review**

**Officer contact for further information:** Simon Hill ext 4249

**Committee Secretary:** Mark Jenkins

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### **Decisions Required:**

- (1) To receive a further background information report on the webcasting activities of the Council; and**
- (2) To consider any recommendations to be made to Overview and Scrutiny Committee;**

### **Introduction**

1. (Senior Democratic Services Officer) At the meeting of the Panel in October 2011 members requested a report on webcasting. This report provides further information about the contract and the Council's webcasting activities based upon requests made at that meeting

2. The report falls into sections which reflect the list items member sought further information on.

#### **(a) Opportunities for charging professional organisations for copies of DVDs;**

3. Since 2007 the Council has provided, on request, a copy of the video file of any meeting requested. The view has been taken that, as residents have already paid for the Webcasting project, no charge has been levied for these copies. Occurrences are in the range of 10-15 per year (as reported at the meeting on 4 October 2011).

4. Members have asked whether there is an opportunity to charge professional organisations for copies of these files. It is officers' understanding from other authorities is that they either do not charge at all or charge for all requests. Normally, these requests relate to planning issues. Therefore the charges would normally be made to a planning agent. From several conversations with residents, it is apparent that planning agents will ask for the applicant to seek the webcast from the Council on the basis that they think they would be charged if they rang themselves.

5. Given that income generated would, say, be generated from half of all requests the income would be less than £100 less the cost of processing these payments.

**(b) Staff costs for filming other bodies' meetings;**

6. The Council's Management Board considered the Council's policy in relation to webcasting at their meeting on 3 September 2008. At that meeting they considered a request from a Parish Council who wanted the Council to webcast some of their Parish meetings. The view was taken that charges should be sought for such requests on the basis of covering all the costs to the Council. In this instance, the Parish declined to pay for the costs involved.

7. Any request received now would be considered on the basis of:

- (1) Whether the staff had the capacity to undertake the function/meeting; and
- (2) Charging back all officer time and associated webcast costs.

8. There is currently the potential that the PLP (Public Law Partnership) may wish us to undertake some filming of training. This has been similarly estimated.

**(c) Use of the Forester, Yearbook and Diary and Council website to advertise and advise of forthcoming meetings;**

9. Officers do place regular articles in the Forester magazine, the last one appeared in issue 63 and the Christmas 2011 issue 65 also carries a webcasting story highlighting the passing of the 100,000 views landmark. We tend to publicize webcasting in connection to current issues as a way to see the work of the council.

All agendas carry a webcast logo which has been recently redesigned.



10. Democratic Services has now taken back responsibility for the production of the yearbook and diary. It is the intention to flag webcast meetings in the diary section.

11. The new website (due May/June 2012) will better integrate the webcasting information on the home page by taking a direct RSS (Real Simple Syndication) feed showing upcoming webcast meetings.

12. Officers are open to any further suggestions from members.

**(d) Webcast index points did not always match the on-screen discussion, and speech and images not being synchronised;**

13. The webcasting operator at each meeting is responsible for:

- (1) Aiming the Camera at the person speaking and ensuring that the caption relates to that member and that the framing of that image is correct, focussed and appropriately light/dark;
- (2) Ensuring that the agenda item shows the correct item being discussed;

(3) Ensuring that any slide being shown at the meeting corresponds with that being shown on the webcast unit;

14. Occasionally that officer will either not notice the caption is wrong or not show the correct agenda item. These can be changed after the event if the operator makes a note of them. As a percentage of the whole output these errors are small. Operators have been reminded of the need to note issues for subsequent changes.

**(e) views of members of the District Council, County Council and Town and Parish Councils;**

15. Members views were canvassed during the preparation of the last report. The only representations made related to (i) viewing with a non-IE browser; and (ii) the syncing of audio and video. The former was resolved by reference to the FAQ's section of the microsite and the latter is currently being addressed by the supplier and requires minor programming adjustments.

16. The Local Council's Liaison Committee has asked that their meetings be webcast in future to allow the topics to be disseminated to Parish and Town Councillors. If this can be accommodated within the current contracted hours/staff are available the request will be trialled at their next meeting.

17. Local Councils are also given access to any training session's webcast. No specific consultation has been done with County Council and Town and Parish Councillors, if members want this to be done they need to give officers guidance as to the types of questions they want answered and the aim of that consultation. Officers are of the view that Town and Parish Councils are unlikely to wish to pay for webcasting their meetings.

**(f) Details of contract costs**

18. The existing contract is made under an Essex HUB Webcasting Framework Contract let in competition. The current contract price is £20,400 this includes:

(1) Lease of two sets of webcasting equipment; one mounted in the chamber, one mobile unit used for Plans South and other external events;

(2) The maintenance of that equipment based on a Service Level Agreement;

(3) The hosting of live webcast files for a period of six month from date of original meeting;

(4) The monitoring of all live webcasts by a technician from the provider (daytime or evening)

19. The contract renewal was achieved under the Framework and is for a term of four years from 1 April 2011 (i.e. until 31 March 2015). There is a break clause in March 2013. At the time of renewal an assessment was made of the current market and on the basis that no new local authority webcasting services providers have entered this already restricted market since the letting of the original webcasting contract in 2008 and that evidence from other authorities undertaking tendering of webcasting services indicates that the Council may not achieve savings equivalent to resources employed in the tendering exercise the contract was renewed.

**(g) further analysis of staffing costs**

20. One additional officer is required at a meeting to operate the webcast unit. The exception is at Area Plans Subcommittee South, which requires two officers due to the amount of equipment required to facilitate the webcast.

21. All officers attending evening meetings have to take the same payment under current contractual arrangements. TOIL is no longer permitted and overtime is not payable. The payment is £58.63 if the meeting finishes before 10.00 p.m. and £86.13 if it finishes after 10.00 p.m. These sums formed part of the Single Status agreement. Meetings generally finish before 10.00 p.m. excepting Area Plans South, being in Loughton, requires officers to put away equipment and bring it back to the Civic Offices store before going home. This meeting often attracts the higher fee.

22. Officers from four departments have volunteered for webcasting duties in the last year and their payments are met from the existing attendance allowance in Democratic Services (annual budget currently £24,560 (all attendances))

23. The table in (k) below shows the total number of webcasts in the period November 2010 to October 2011 being 83. Therefore an approximate staffing cost for those meetings would be in the region of £5,800. It would require an in-depth review of those meetings to determine the exact figure but this sum is a good estimate.

**(h) Arrangements under the contract when 15 webcasts per month is exceeded and the charges which then applied;**

24. The contract currently in place has a restriction of 15 hours of webcasting per month (not 15 webcasts). This equates to 180 hours per annum. Each quarter a rota of meetings is devised taking account of Management Boards instructions and requests from Service Directors (Examples from this year would include meetings relating to Park Homes and the 30 Year Housing Plans).

25. It is very difficult to estimate the time that any meeting will take. We can estimate the average meetings length based on previous meetings (currently just under two hours on average – data taken from Committee Management System). Experience tells us therefore that we can webcast approximately 8 or 9 meetings per month.

26. The provider has indicated that:

- To increase the Council's capacity to 20 hours per month (240 per annum) would cost an additional £2,250 per annum; and
- To increase to 25 hours per month (300 per annum) would cost an additional £4,500 per annum

**(i) occasions when officers are restricted by the limit of 15 webcasts per month**

27. There have been no instances that officers have been restricted. Webcast time has varied over the years. The outturn report for the period November 2010 to October 2011 is shown in (k) below. In previous years we have been much closer to our limit figures. There is two reasons for the lower figures this year (i) the reduction in the number of planning committees and the overall length of meetings; and (ii) the

cancellation of a number of meetings. There have been occasions when the limit of 15 hours per month has been exceeded but no charges have been levied by the provider.

**(j) Charging for advising other bodies on webcasting including visits to other authorities/bodies**

28. Members asked whether charges could be made for advising other Council's about webcasting. Within local government there has always been a view that all authorities provide mutual assistance. This is very different from the commercial sector. In Democratic Services this might mean that we can provide advice about webcasting, committee management, elections, and civic events to other authorities. They in-turn assist us solving problems that we might not have come across before. This system is common across all local government disciplines and this Council would have benefited many times from using good practice from other Council's. The authority has been previously contacted by another Council to provide project management but no capacity exists to provide this level of support.

29. Given the national situation officers see little or no scope to charge for this advice.

30. The Senior Democratic Services Officer also Chairs the National Webcasting User Group and belongs to small group that advises the provider on development roadmaps and new functionality. This does enable the Council to be at the forefront nationally.

**(k) Statistics on the split between public and officer viewing figures**

month	all activity	live viewers	archive viewers	no hours webcast	no meetings covered	% Council originating viewers
Nov-10	9847	167	2271	16:41:00	8	3.20
Dec-10	7903	100	1631	11:21:00	6	2.20
Jan-11	7131	100	1120	15:05:00	8	1.89
Feb-11	5564	149	1128	14:37:00	9	2.90
Mar-11	9597	175	1668	12:05:00	8	3.26
Apr-11	8724	147	1276	13:44:00	8	2.81
May-11	6658	79	1561	7:58:00	5	2.38
Jun-11	8221	161	1778	14:53:00	7	3.61
Jul-11	8912	204	2792	11:07:00	6	2.37
Aug-11	1089	72	734	8:16:00	5	3.97
Sep-11	3708	1307	1885	22:02:00	9	2.85
Oct-11	1876	69	1169	7:55:00	4	8.80
<b>Totals Combined</b>	<b>79230</b>	<b>2730</b>	<b>19013</b> <b>21743</b>	<b>155:44:00</b>	<b>83</b>	<b>Ave 3.35%</b>

31. During this period calculations have also been taken using a different measurement which estimates views originating from our IP address as being 4% of total.

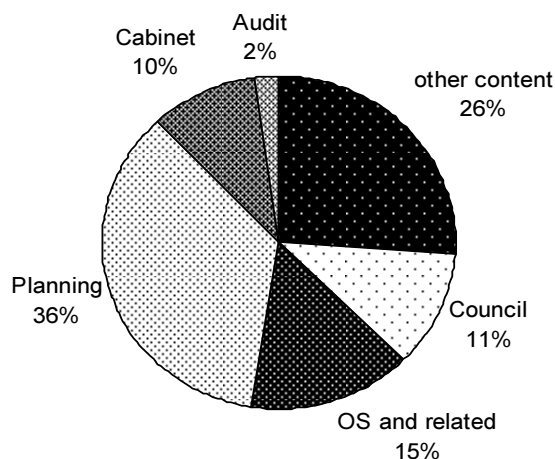
32. In addition for the period November 2010 – October 2011:

Total unique visitor IP addresses were: 5254  
 Total return visitor IP addresses were: 3305  
 Total one time visitor IP addresses were: 1949

(l) Analysis of the number of "hits" for meetings

33. Based upon the 'combined' views during the period November 2010 to October 2011 the following table shows the breakdown meetings being viewed.

	%	no
Other content	26	5675
Council	11	2500
OS and related	15	3270
Planning	35	7679
Cabinet	10	2151
Audit	2	468
<b>Totals</b>	<b>100</b>	<b>21743</b>



(1) Other content includes all non-meeting webcasts such as events, conferences and films but not those from the Council's Youtube channel.

(2) Planning includes all Planning meetings and DDCC

(3) Cabinet includes any webcasted Subcommittee meetings

(4) OS and related includes all OS Panels etc.

(m) Comparisons with the website statistics for other councils

34. The following shows viewing statistics against other Council's.

Council Type	Total	Live	Archive
City Council 1	122028	28280	91229
Association 1	81512	5725	75645
County 1	42622	11741	30608
Unitary 1	33035	5861	27133
City Council 2	28213	4364	23738
Unitary 2	24146	3759	20297
County 2	24203	6288	17813
County 3	24161	7707	16442
<b>Epping Forest</b>	<b>21743</b>	<b>2730</b>	<b>19013</b>
Metropolitan Council 1	17992	1553	16213
Unitary Borough 1	20982	5940	15001
County 4	18520	4676	13799
Unitary Borough 2	20515	7221	12978
Unitary Borough 3	13564	1436	12106
County 5	14518	2672	11825

<b>Council Type</b>	<b>Total</b>	<b>Live</b>	<b>Archive</b>
Metropolitan Council 2	13160	1503	11484
County 6	13069	2930	10030
Unitary Borough 4	13583	4048	9522
County 7	11286	2083	9183
District 1	10127	1845	8272
Other Authority 1	11827	2103	8194
District 2	9652	1508	8111
District 3	8415	645	7750
District 4	8320	629	7639
District 5	8430	831	7536
County 8	10485	2793	7526
Metropolitan Council 2	10616	3093	7378
Unitary Borough 5	8414	1121	7265
District 6	7877	1399	6440
Other Authority 2	6396	683	5706
City Council 3	7691	2567	5112
Unitary Borough 6	8100	3112	4963
City Council 4	5989	1082	4902
Unitary	5176	416	4754
County 9	5010	573	4423
District 7	5468	1054	4409
Metropolitan Council 3	4835	499	4328
District 8	4946	758	4176
District 9	4392	487	3900
City Council 4	4428	1228	3200
Other Authority 3	3841	652	3187
City Council 5	3818	799	3018
District 9	3912	1019	2879
County 10	1738	133	1604
County 11	1210	345	865

35. The Council also uses the webcasting technology and equipment to produce video for the Council's Youtube channel. During the same period these videos have been viewed 5423 times. This would have the effect of bringing combined viewership to 27,166.

36. Members are requested to consider the report and make any recommendation to the Committee as they consider is appropriate.

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## **Report to Constitution & Member Services Standing Scrutiny Panel**

**Date of meeting: 20 February 2012**

**Subject: Reporting from Outside Organizations**

**Officer contact for further information: Ian Willett (01992 564243)**

**Committee Secretary: Mark Jenkins (01992 564607)**



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### **Recommendation:**

- (1) To consider scoping the requested review of the Council's links with outside organisations and in particular those aspects which the Panel wishes to address;**
- (2) To consider the need for consultation as part of this review; and**
- (3) To conduct a full review as part of next year's work programme.**

### **Report:**

1. At the meeting on 27.7.11 (Minute 16), the Panel recommended changes to the arrangements for members to report as representatives of the Council on outside organisations. These changes were adopted by the Council and comprised:

- a) a stipulation that all such reports should be in writing and prepared in time to be circulated to members before Council meetings; and
- b) introduction of a new system whereby the Council or any member can request a report from a representative on the work of any outside body.

2. At the same meeting, the Panel asked (Minute 13) for a wider review of reporting by such representatives. This report is designed to allow the Panel the opportunity to scope this further review.

3. Attached as Appendix 1 is the Protocol on External Partnerships from the Constitution. This was created in 2005 and reviewed in 2007. It is suggested that this document might be the starting point for this review.

4. The last review made a series of changes to the Protocol which can be summarized below:

- a) better supply of the protocol to representatives when they are first reported (Para. 3.5);
- b) clarification of the special position of representatives who are not Councillors (Para. 5.1);
- c) more emphasis on Councillors who act as trustees (Para. 6.4);
- d) relationship of the Protocol to the Officer and Member Codes of Conduct (paras. 12.1-12.2); and

e) more details about submission of reports.

5. The current version of the Protocol needs to be updated to take account of the changes in procedure at Council meetings agreed in July last year.

6. There have been difficulties in obtaining reports from both members and outside organizations and the process itself is time-consuming administratively. Members are asked to consider the particular matters which should be the subject of this review.

**PROTOCOL ON PARTNERSHIPS  
AND OTHER EXTERNAL ORGANISATIONS**

**Adopted by Epping Forest District  
Council on 13.12.05  
Revised on 18.12.07**

## **PROTOCOL - PARTNERSHIPS AND EXTERNAL ORGANISATIONS**

### **1. Purpose of Protocol**

- 1.1 To provide a framework of advice for the conduct of members and officers when representing the Council on external partnerships and other organisations.
- 1.2 To provide specific guidelines on questions relating to:
  - (a) member and officer liabilities;
  - (b) indemnities;
  - (c) reporting back to the Council;
  - (d) annual reports; and
  - (e) training.
- 1.3 This protocol is limited to appointments made in connection with the Council's powers, duties and general activities. It does not apply to membership of outside organisations held on a personal basis (i.e., independently of the Council). In such cases the member or officer concerned has a personal responsibility to consider issues such as indemnities, potential conflicts of interest and declarations of interest (see paragraphs 6.4 and 6.5 of this protocol).

### **2. Council involvement with External Partnerships and Organisations**

- 2.1 The Council is routinely invited to appoint representatives to external bodies. Such invitations usually arise in one of the following ways:
  - (a) by virtue of a statutory duty or other legal requirement;
  - (b) by virtue of a specific decision or policy adopted by the Council;
  - (c) by virtue of invitations deriving from the Council's community leadership/consultative role; and
  - (d) by virtue of professional contacts among officers or through liaison arrangements delegated to them.
- 2.2 This protocol is intended to regularise the arrangements operating in any such case.

### **3. Appointments - Members of the Council**

- 3.1 Member appointments are usually consolidated in May each year at the Annual Council meeting. Other Council meetings sometimes deal with appointments, usually in relation to casual vacancies or new bodies. All bodies will be reviewed annually.
- 3.2 Member appointments are subject to separate protocols in the Council's Constitution covering:
  - (a) allocation of places between the political groups; and
  - (b) allocation of places on outside organisations to Portfolio Holders where Cabinet functions are directly involved.
- 3.3 Reference to those separate rules is necessary on all questions of appointment procedure. No appointment of a member to an outside body or partnership can be

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made without a Council decision. In deciding to make any appointments, the Council will satisfy itself that this involvement is relevant for the power and duties of the Council or is otherwise desirable.

- 3.5 When taking up their appointments, Councillors will be provided with a copy of this protocol and past annual reports so that they are fully briefed on the organisation concerned.

#### **4. Appointments - Officers of the Council**

- 4.1 Officers serve on outside bodies in 3 main capacities:

- (a) when appointed by the Council, in lieu of a member representative or where both a member and an officer is desirable;

These appointments under 4.1 (a) above are subject to the same rules as applied to members.

- (b) by virtue of the post occupied or professional background/development requirements;

These are agreed by Heads of Service. For more junior positions, Heads of Service give approval, except where consultation with members or Management Board is desirable.

- (c) by virtue of a special invitation outside the normal terms of an officer's employment.

These appointments require approval by the Management Board and the Council in the case of Senior Officers. Junior staff are dealt with by Heads of Service. The Council's staffing policies stipulate the correct method of making these appointments.

#### **5. Appointments – Non-Councillors**

- 5.1 Sometimes the Council appoints representatives who are neither Councillors nor officers. Such representatives are subject to the provisions of this protocol except in so far as they may not be able to report back in the manner prescribed for elected members and officers. In the latter circumstances, they should contact the relevant Head of Service or the Portfolio Holder concerned for advice.

#### **6. Representatives on Outside Partnerships and Organisations - Policy Aspects**

- 6.1 Where any external organisations are involved in any matter which directly or indirectly affects the policies, responsibilities and powers of the Council, representatives must be aware at all times that the Council's policy is paramount. No undertakings should be given which in any way compromise the legal requirements applying to Council operations or which compromise the policy of the Authority.
- 6.2 Representatives should report back to the Council on any matters affecting the Council and seek information with which to advise an external organisation or partnership. In reporting back, a representative may wish to request the relevant decision maker (e.g. the Cabinet or a Portfolio Holder) to consider any recommendations from the organisation concerned. No undertakings should be given on the outcome.

- 6.3 Some external partnerships have a basis in statutory powers whereby a number of partner bodies work together to achieve joint objectives. Although representatives are already able to participate in the proceedings of such partnerships, they should bear in mind at all times:
- (a) that the Council may have established policies and procedures which may be affected by those decisions; and
  - (b) that implementation of partnership objectives may still require decisions by the Council in terms of staffing, finance and other resourcing matters.
- 6.4 In relation to Trusts, it is likely that if a Council representative accepts a position of trustee, this will create a legal duty to work for objectives of the Trust instead of the Council. In such circumstances serving Councillors acting as representatives must be mindful of conflicts of interest, which may be created, and act in accordance with the Council's code of conduct. (See Section 12 below.)

## **7. Representatives on Outside Organisations and Partnerships - Insurance and Indemnities**

- 7.1 Local Authorities are unable to provide all embracing indemnities or incur costs for all activities on all outside bodies. The Council's insurers can provide an indemnity to individual members and employees in limited circumstances only.
- 7.2 The circumstances in which the Council's insurers (currently Zurich) advise an indemnity can be provided are:
- (a) where an individual acts solely on behalf of his or her authority, within the terms of reference laid down by the authority, and solely in pursuance of the local authority's statutory powers;
  - (b) where the individual acts solely in an advisory capacity in connection with the local authority's functions;
  - (c) where the individual occupies an observer role on the board or committee of an outside organisation, representing the local authority's interests (rather than in a decision-making capacity);
  - (d) where the individual acts on behalf of a joint committee established by two or more local authorities.
- 7.3 The authority is not able to provide an indemnity in respect of those activities where the individual acts:
- (a) solely on behalf of an outside body; or
  - (b) outside his or her delegated powers; or
  - (c) outside the authority's statutory powers.
- 7.4 Members and officers of the Council can therefore participate on outside organisations as observers or facilitators in the exchange of views or information as an extension of their position as local authority Councillors, but they may not make any decisions which are binding on the local authority.

7.5 Members are also not indemnified if they serve in an executive capacity on an outside body. A Member's status as a local authority councillor does not prevent the Member serving on an outside body in a personal capacity (i.e. not as a Council representative), provided that this does not create a conflict with his or her duties as a local authority member. Outside bodies must provide cover in either of these situations and local authority Members and employees should ensure that adequate cover for them is in place before agreeing to being appointed.

7.6 The same principles apply to officers as are set out in paragraph 6.4 above.

## **8. Written Agreements**

8.1 The Local Government Association, in conjunction with the National Council for Voluntary Organisations, has produced a Code of Practice, a key recommendation of which is a formal written agreement between external organisations and the Council. This protocol therefore requires such an agreement to be compiled in each case covering the following:

- (a) the relationship between the local authority and the organisation e.g. funder, partner;
- (b) the formal role and responsibilities of the authority, employee or Member, e.g. director, trustee, adviser, observer;
- (c) a general statement regarding what is expected from the local authority Member or employee;
- (d) the responsibilities and liabilities of members where board membership of the outside organisation is involved in terms of legislation, regulation and accounting standards;
- (e) confirmation that, where the outside organisation is a charity, a Member or employee who is acting as a trustee must act in the interests of the charity rather than the authority when serving in that capacity;
- (f) the role of observers, including receipt or withholding of confidential papers, attendance or exclusion from meetings and any speaking or voting rights;
- (g) the arrangements made by the outside organisation to indemnify their members against the risk of personal liability where board or trustee membership is involved; and
- (h) the arrangements made by the authority to cover their Members and employees whilst serving on outside organisations.

8.2 The Council will maintain up-to-date records of the approved involvement of the authority and its members and employees who serve on outside organisations including:

- (a) regular reviews of all placements and categorisations;
- (b) the establishment of a register to be used as the basis for central record;

- (c) specific terms of reference being given to each individual involved with an outside body;
- (d) confirmation of the extent to which the authority's indemnity does apply, emphasising the consequences for the individual if his or her terms of reference are exceeded;
- (e) a clear statement that the authority's indemnity will not be available where the individual is:
  - a director on the board of a limited company; or
  - a trustee of a trust or charity; or
  - a voting member of the management committee of an unincorporated association;
 and is not exercising a local authority function;
- (f) the position of an individual member on the Board or Committee of a grant-aided organisation to be amended to observer only; and
- (g) written confirmation to all Members and employees that personal or social memberships (i.e. those not connected with the Council) are not covered by the authority's indemnity.

8.3 A form of agreement document is attached as Appendix 2.

## **9. Representatives on External Organisations/Partnerships - Directorships**

9.1 Memberships of some organisations confer executive responsibilities on Council representatives. Cases in point are trustees of charities, directorships and membership of other statutory authorities.

9.2 There is a general presumption against such positions being held by representatives of this Council. This reflects conflicts of interest which can arise between the aims and objectives of the Council and those of the organisation concerned.

9.3 In cases where representatives hold such positions they must ensure:

- (a) that they have been duly appointed by the Council (in the case of members) or the Management Board (in the case of officers);
- (b) that their duties on behalf of the organisation do not conflict with their role as Councillor or officer; and
- (c) that they maintain a clear distinction of responsibilities by declaring interests and not participating in Council meetings or discussions where there is a direct conflict of interest as defined by the Code of Conduct.

9.4 Representatives should seek timely advice on their position under the Code of Conduct for Members and Officers and any advice issued by the Standards Board for England and the Epping Forest District Standards Committee.



## **10. Reporting Arrangements - Members of the Council**

- 10.1 A prime responsibility for members and non members who serve on outside organisations and partnerships is to keep the Authority informed of the work of those bodies. Such reports can also provide useful information by which the Council can judge whether continued involvement is of benefit to the Council. The Council will seek to receive copies of minutes of organisations but the reports by the representative may still be required.
- 10.2 Such reports should cover:
- (a) reports to the Cabinet on specific matters actually or potentially affecting the Council or on urgent matters; and
  - (b) annual reports (even if these are produced separately by the organisation concerned).
- 10.3 Reports under 10.2(b) should be made in cases where an organisation does not produce its own annual report. A prescribed format (attached Appendix 3) should be used. A relevant timescale will be prescribed for this leading to the Annual Council meeting each year. Copies of these reports will be provided to all political groups on the Council.
- 10.4 Where a representative is not a Councillor, reports under 9.2(a) above should be directed to the Head of Service concerned or the appropriate portfolio holder.

## **11. Reporting Arrangements - Officers of the Council**

- 11.1 Officers serving on outside organisations or partnerships as representatives of the Council shall keep their line manager(s) or Head of Service informed about the work of the body concerned. Heads of Service shall determine whether any information should be referred to the Management Board/Portfolio Holder.
- 11.2 Where officers serve on such bodies either as Council representatives or independently they must include those appointments in their declarations of interest under the Officer Code of Conduct.

## **12. Effect of the Code of Conduct – Elected Members**

- 12.1 The Council's Code of Conduct states that a Councillor has a personal interest in any business of the Authority where it relates to or is likely to affect any external body to which they are appointed or nominated by the Council as its representative. However, that interest need only be disclosed at a meeting if the Councillor speaks on the matter concerned.
- 12.2 Such personal interests are prejudicial interests if they affect the financial position of any organisation on which they are represented or relate to the granting of any consent, approval, licence or registration of such a body. In those two circumstances the Councillor must declare that interest and leave any meeting for the duration of the discussion. Questions of grant aid, planning consent licensing are cases where elected Councillors need to exercise care not to breach the Code.

### **13. Review of Protocol**

- 13.1 The protocol shall be subject to review on a regular basis or according to specific circumstances.

# LIST OF APPENDICES

- Appendix 1 - Statement of Indemnities/Insurance in respect of outside bodies**
- Appendix 2 - Agreement Document**
- Appendix 3 - Annual Report Format**

**PROTOCOL ON PARTNERSHIPS  
AND OTHER EXTERNAL ORGANISATIONS**

**APPENDIX 1**

**INSURANCE AND INDEMNITY STATEMENT**

**1. Circumstances in which indemnities that can be provided by the Council's Insurers in respect of member or officer involvement in external partnerships and organisations:**

- (a) Where an individual acts solely on behalf of his or her authority, within the terms of reference laid down by the authority, and solely in pursuance of the local authority's statutory powers;
- (b) Where the individual acts solely in an advisory capacity in connection with the local authority's functions;
- (c) Where the individual occupies an observer role on the board or committee of an outside organisation, representing the local authority's interests (rather than in a decision-making capacity);
- (d) Where the individual acts on behalf of a joint committee established by two or more local authorities.

**2. Activities for which the Council is unable to provide indemnities**

Activities where the individual member or officer acts:

- (a) solely on behalf of an outside body; or
- (b) outside his or her delegated powers; or
- (c) outside the authority's statutory powers.

**Notes:**

- 1. This statement derives from the indemnity provisions and exclusions from the Council's Public Liability Policy held with Zurich Municipal.
- 2. This statement will be reproduced as part of the agreement with each outside organisation. (See Appendix 2)

**PROTOCOL ON PARTNERSHIPS  
AND OTHER EXTERNAL ORGANISATIONS**

**APPENDIX 2**

**STANDARD FORM OF AGREEMENT  
BETWEEN EPPING FOREST DISTRICT COUNCIL AND \_\_\_\_\_**

**A. STATEMENT OF PARTICULARS \_\_\_\_\_**

NAME OF ORGANISATION/ PARTNERSHIP (1)	
ADDRESS FOR CORRESPONDENCE (2)	
E-Mail (3)	
Telephone No (4)	
Fax No (5)	
AIMS AND OBJECTIVES OF ORGANISATION (Supply copy of Constitution, governing instrument or trust deed) (6)	
MEETING/AGENDA ARRANGEMENTS (Please describe) (7)	
WHAT STATUS/ROLE WILL THE COUNCIL REPRESENTATIVE FULFIL? (viz observer, voting committee member, trustee, director etc)  (Please state any restrictions including any on confidential information) (8)	

DOES PUBLIC LIABILITY INSURANCE EXIST FOR THE WORK OF THE ORGANISATION? (Give name of insurer and policy number) (9)	
IS THE ORGANISATION A REGISTERED CHARITY? (Give registration number) (10)	

**B. FINANCIAL INFORMATION**

Does this organisation receive grant aid or similar financial support from Epping Forest District Council? (Give details) (11)	
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**C. STATEMENT OF PARTICULARS - EPPING FOREST DISTRICT COUNCIL**

REPRESENTATIVES OF EPPING FOREST DISTRICT COUNCIL	
STATUS (OFFICER/MEMBER) (12)	
TERM OF APPOINTMENT (13)	
CONTACT DETAILS (Address, telephone, fax, e-mail) (14)	

#### **D. TERMS OF AGREEMENT - [Organisation]**

The \_\_\_\_\_ agrees to:

- (a) provide details of all relevant documentation and access to all meetings to the representatives of Epping Forest District Council;
- (b) provide details of meeting venues, times of meetings;
- (c) acknowledge that no Council representative may make decisions or give commitment on behalf of the Council in respect of any matter affecting the organisation;
- (d) acknowledge that no Council representative may commit the Council to any action or policy affecting the organisation;
- (e) acknowledge that a Council representative may be required to declare a personal interest in terms of his or her representation on the organisation and in some circumstances, may have a prejudicial interest which will require withdrawal from any District Council body considering a matter concerning that organisation;
- (f) note that Council representatives will only be indemnified as set out in the enclosed statement;
- (g) assist the Council representative in submitting regular reports to Epping Forest District Council on matters affecting the organisation;
- (h) agrees to provide separate copies of agenda, minutes, reports, statements of accounts, annual reports to Epping Forest District Council in addition to those provided under 1(a) above;
- (i) where appropriate, agrees to the attendance at meetings of nominated deputies when the representative is absent.

#### **E. TERMS OF AGREEMENT - EPPING FOREST DISTRICT COUNCIL**

The Epping Forest District Council agrees as follows:

- (a) to appoint representatives and deputy representatives in accordance with the organisation's requirements;
- (b) to keep the organisation informed of relevant Council decisions via its representative(s);
- (c) to indemnify its representatives but only in accordance with the statement attached;
- (d) that it expects Council representatives to attend meetings and participate in any training deemed necessary by the organisation;
- (e) to advise representatives on any matters relating to interests as they arise.

#### **F. SIGNATURES**

(a) For \_\_\_\_\_ [Organisation]

On behalf of the above-named organisation, I agree to the conditions attaching to the appointment of representative(s) by Epping Forest District Council

Signed \_\_\_\_\_  
Name \_\_\_\_\_  
Position \_\_\_\_\_  
Date \_\_\_\_\_

(b) For Epping Forest District Council

On behalf of Epping Forest District Council, I confirm the conditions and undertakings attaching to Council representation on the above-named organisation.

Signed \_\_\_\_\_  
Name \_\_\_\_\_  
Position \_\_\_\_\_  
Date \_\_\_\_\_



# Report to the Constitution and Members Services Standing Scrutiny Panel



**Date of meeting:** 20 Februar 2012

**Portfolio Holder:** Support Services

**Subject:** Circulation of Agenda – Follow Up Report

**Officer Contact for further Information:** Ian Willett (01992 564243)  
Assistant to the Chief Executive

**Democratic Services Officer:** Mark Jenkins (01992 564607)  
Democratic Services Officer

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## Recommendations:

- (1) To review the circulation of agenda in respect of Council, Cabinet and Overview and Scrutiny Committee meetings;
- (2) To consider whether members of the Council should be consulted via the Members' Bulletin on any changes proposed with a view to initiating preferred changes to circulation lists or await the further review of electronic delivery and associated legal advice.

## Report

1. At the Overview and Scrutiny Committee on 29 November 2011, a follow up item was added to the Panel's work programme. This relates to member despatch arrangements and in particular to agenda which are sent to all Councillors.

2. This issue was discussed at the last meeting of the Panel and some concern was expressed about whether distribution lists should be reviewed so as to reduce the amount of paper copies in circulation. This has to be seen in the context of legal requirements which are now to be clarified by obtaining Counsel's opinion on:

- (a) a move to an electronically-based despatch system for all agenda and all Councillors;
- (b) a health check on the current arrangements for electronic notification to non-members with paper copies sent only to members of the Council body concerned.

3. A survey of despatch lists shows that the arrangement summarised in 2(b) above does not apply to the following agendas:

- (a) Cabinet;
- (b) Council;
- (c) Standards Committee; and
- (d) Overview and Scrutiny Committee.

4. The total distribution for each of these agenda is approximately 85-90, 58 copies are sent to Councillors and the balance for Directors and a limited number of other staff, plus the public at meetings and information centres. Some of the public copies held in Democratic Services prior to meetings are requested by Councillors and officers who do not receive a paper copy as of right. The general assumption is that Councillors who do not receive paper agenda are able to access the information on line. The IT allowance paid as part of the remuneration scheme (£500 p.a. for new members in their first year and £250 p.a. in subsequent years) is intended, along with Basic Allowance, to assist with running costs.

5. Under the present policy, a complete distribution to Councillors for Council meetings

will take place. In terms of the Cabinet (but not Cabinet Committees) and the Overview and Scrutiny Committee (excluding Panels), a decision was made operationally to continue complete paper circulation so as to facilitate the call in process and heighten awareness of the Overview and Scrutiny function. However, this is not a constitutional requirement.

6. The Standards Committee is circulated to all Councillors as a paper copy. This was an operational decision designed to highlight the ethical framework and the role of the Standards Committee. However, the future of the Standards Committee is now under review following the passing of the Localism Act 2011.

7. If the Panel wish to see changes in the distribution of agenda, the Assistant to the Chief Executive could consult all Councillors on the following basis:

- (a) do they wish to continue the present arrangements for these four Committees?
- (b) do they wish to replace this with an "opting in" or "opting out" policy at the beginning of each Council year?
- (c) do they wish to replace the current system with "members only" paper agenda only for members of the bodies concerned?

8. The reduction in print runs for these three bodies will reduce the re-charge to Democratic Services for printing. Currently this sum equates to expenditure of £49,000 for the current year. However, any saving achieved should be balanced against:

- (a) possible adverse member reaction if paper copies are discontinued before an electronic alternative has been identified;
- (b) the need for legal advice on whether notices of meeting must be in paper form; and
- (c) the potential for non members to become "detached" from Cabinet and Overview and Scrutiny Committee activities if paper agenda are discontinued.

9. On balance, it may be preferable to await the results of legal advice currently being sought and the review of electronic delivery which is due next year.

**Report to the Constitution and Members  
Services Standing Scrutiny Panel**



**Date of meeting:** 20 February 2012

**Portfolio Holder:**

**Subject:** Executive and Regulatory Council Decision-Making

**Officer Contact for further Information:** Ian Willett (01992 564243)  
Assistant to the Chief Executive

**Democratic Services Officer:** Mark Jenkins (01992 564607)  
Democratic Services Officer

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**Recommendations:**

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

**(a) District Development Control/Area Plans Sub-Committees/Licensing Committee/Sub-Committees**

That the following paragraph be added to the terms of reference of the District Development Control Committee (as paragraph 6), Area Plans Sub-Committees (as paragraph 13) and the Licensing Committee (as paragraph 8):

"(...) The Committee/Sub-Committee\*, in exercising its powers and duties under these terms of reference, shall disregard any connection with the Council's property interests when taking regulatory decisions on behalf of the Council except in any case where the proposal has merits in planning terms."

\*as appropriate

**(b) Conduct of Business by Licensing Committee and Sub-Committees**

That paragraph 5.1 (b) (i) of the document entitled "Conduct of Business by Licensing Committee and Sub-Committees" be amended to read as follows (addition shown in bold text):

"(i) The rules on declarations of interests shall be firmly applied. So as to avoid any appearance of bias, members of the Licensing Committee or of any Sub-Committee shall disregard any connection between a licensing decision and the Council's property interests and shall deal with such business solely in accordance with statutory licensing procedures and the Council's policy in that regard."

**The Executive/Cabinet**

(c) that Paragraph 2.2 of the Executive Procedure Rules (entitled "What Business?") be amended by the addition of the following paragraph:

"In dealing with any of the above-mentioned business and, in particular, any matters relating to the Council's property interests, the Cabinet, Cabinet Committees and individual portfolio holders acting under delegated powers shall be mindful that any such decision will not pre-determine any subsequent regulatory decision by the authority which may arise."

## Report

1. At its meeting on 4 October 2011, the Panel recommended to the Overview and Scrutiny Committee that their work programme should be extended to allow consideration of any amendments to the Constitution needed to clarify the Council's role as regulatory authority and landowner. This recommendation was subsequently approved by the Overview and Scrutiny Committee and this report submits proposals for clarifying within the Constitution how these two potentially conflicting roles should operate.

### Implications of Different Council Roles

2. In the previous report, the Panel were advised that the question of the need to separate the Council's general role as landowner from its role as regulatory authority needed to be at the forefront of decision making. The particular Council functions which were relevant to this issue were planning and licensing.

3. The Panel recognised that executive decisions on service provision were made on the basis of legality, probity and financial/technical considerations. It was accepted that the regulatory decisions followed separate processes and should not take account of the Council's property role. It was also noted that the current constitution clearly distinguishes those functions which may be dealt with by the Executive (e.g. managing the Council's property portfolio) and these other regulatory roles which do not fall to the Cabinet.

### Review of the Constitution

4. A review has been carried out of the need to amend any constitutional requirements so as to specify the difference between landowner and regulatory decision-making and recommendations are included at the commencement of this report designed to clarify these.

5. There are three changes:

(a) in the terms of reference of the District Development Control and Area Plans Sub-Committees;

(b) in the terms of reference and operational rules of the Licensing Committee and its Sub-Committees; and

(c) in the Executive Procedure Rules.

6. Items 5(a) and (b) are designed to make it clear that regulatory decisions made by those bodies must not normally take account of the Council's property interests in whatever form they may arise. This might apply for instance to planning applications relating to the Council's property or licensing decisions of a similar nature. It is of course difficult for Councillors to disregard the decisions made by the executive on property matters but it is also clear that planning committees must be scrupulous in assessing proposals according to planning requirements, including any legitimate discretions which may be exercised. The same could be said of licensing matters affecting a Council owned property.

7. However, there may be situations where a decision relating to the Council's property might have planning merits as well as improving the Council's property. A proviso is therefore made in the proposed amendment that if a proposal has planning merits this would be a legitimate discretion for a planning committee to exercise. This would be the position for any other landowner and it is felt that the same should apply if the landowner is actually the Council. A similar discretion might apply to the New Homes Bonus where housing proposals might also have planning merits.

8. Item 5(c) sets out a proposed amendment to the Executive Procedure Rules which is designed to make clear that Cabinet members must always have in mind that making an executive decision on a property matter must not pre-determine any regulatory decision (whether planning or licensing) which might arise.

9. Having examined the constitution, these issues have not previously been written down in the manner now proposed. However, there has always been advice in the Planning Protocol regarding conflicts of interest which can arise in planning. At the last meeting, the Panel asked the Standards Committee to consider reviewing the Planning Protocol with this in mind and also to offer similar advice on licensing matters. This matter is due to be discussed by the Standards Committee at its next meeting.

### **Conclusion**

10. It is hoped that the proposed additions to the constitution will assist in member understanding of the difference between the property and regulatory roles. As has been said, this will be supported by advice in a new protocol and will be dealt with as part of training for members of the Council as the years go by.

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