



Overview and Scrutiny Committee Tuesday, 4th September, 2012

Place: Council Chamber, Civic Offices, High Street, Epping

Time: 7.30 pm

Democratic Services Officer: Simon Hill, Senior Democratic Services Officer, The Office of the Chief Executive
email:democraticservices@eppingforestdc.gov.uk Tel: 01992 564249

Members:

Councillors R Morgan (Chairman), K Angold-Stephens (Vice-Chairman), K Chana, Mrs R Gadsby, L Girling, D Jacobs, Ms H Kane, P Keska, A Lion, Mrs M McEwen, S Murray, J Philip, Mrs M Sartin, Mrs P Smith and D Wixley

PLEASE NOTE that there will be a short pre-meeting for all members of the committee starting at 7pm in Committee Room 1 so that they can discuss their line of questioning for tonight's presentation.

WEBCASTING NOTICE

Please note: this meeting may be filmed for live or subsequent broadcast via the Council's internet site - at the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed.

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1. WEBCASTING INTRODUCTION

1. This meeting is to be webcast. Members are reminded of the need to activate their microphones before speaking.

2. The Chairman will read the following announcement:

“This meeting will be webcast live to the Internet and will be archived for later viewing. Copies of recordings may be made available on request.

By entering the chamber’s lower seating area you consenting to becoming part of the webcast.

If you wish to avoid being filmed you should move to the public gallery or speak to the webcasting officer”

2. APOLOGIES FOR ABSENCE

3. SUBSTITUTE MEMBERS

(Assistant to the Chief Executive). To report the appointment of any substitute members for the meeting.

4. MINUTES (Pages 7 - 16)

Decisions required:

To confirm the minutes of the meetings of the Committee held on 17 July 2012.

5. DECLARATIONS OF INTEREST

(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.

6. PRESENTATION FROM CITY OF LONDON CORPORATION

To receive a presentation from Paul Thompson Superintendent of Epping Forest from the City of London Corporation on the management of Epping Forest.

Also in attendance will be Judy Adams, Chairman of Friends of Epping Forest.

7. WORK PROGRAMME MONITORING (Pages 17 - 38)

(a) To consider the updated work programme

The current Overview and Scrutiny work programme is attached for information.

(b) Reserve Programme

New Item for Work Programme - Councillor James Hart has submitted a new item of work (attached) for the Committee to consider.

8. CABINET REVIEW

RECOMMENDATION:

To consider any items to be raised by the Chairman at the Cabinet meeting on 10 September 2012.

(Assistant to the Chief Executive). Under the Overview and Scrutiny rules the Committee is required to scrutinise proposed decisions of the Executive. The Chairman is also required to report on such discussions to the Cabinet.

The Committee is asked to consider the 10 September 2012 Cabinet agenda (previously circulated) to see whether there are any items that they wished to be raised at the Cabinet meeting.

9. AUDIT AND GOVERNANCE COMMITTEE, ARTICLE 11 OF THE CONSTITUTION (Pages 39 - 50)

To consider the attached report of the Constitution & Member Services Standing Scrutiny Panel

10. MEMBER COMPLAINTS PANEL - LIMITS OF JURISDICTION (Pages 51 - 54)

To consider the attached report of the Constitution & Member Services Standing Scrutiny Panel

11. SUBSTITUTIONS AT MEETINGS (Pages 55 - 58)

To consider the attached report of the Constitution & Member Services Standing Scrutiny Panel

12. SAFER CLEANER GREENER STANDING PANEL - CHANGE IN TERMS OF REFERENCE (Pages 59 - 62)

(Safer Cleaner Greener Standing Panel) - To consider the attached report.

13. EXCLUSION OF PUBLIC AND PRESS

Exclusion: To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of

business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

Agenda Item No	Subject	Exempt Information Paragraph Number
Nil	Nil	Nil

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

Confidential Items Commencement: Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.
- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

Background Papers: Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.

EPPING FOREST DISTRICT COUNCIL OVERVIEW AND SCRUTINY MINUTES

Committee: Overview and Scrutiny Committee **Date:** Tuesday, 17 July 2012

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 7.30 - 10.06 pm

Members Present: Councillors R Morgan (Chairman) K Chana, Mrs T Cochrane, Mrs R Gadsby, L Girling, D Jacobs, Ms H Kane, P Keska, A Lion, Mrs M McEwen, Mrs M Sartin, Ms G Shiell, Mrs P Smith and D Wixley

Other Councillors: Councillors R Bassett, W Breare-Hall, Mrs A Grigg, Ms J Hart, G Mohindra, D Stallan, Mrs L Wagland, Ms S Watson, Mrs E Webster and C Whitbread

Apologies: Councillors S Murray and J Philip

Officers Present: D Macnab (Acting Chief Executive), C O'Boyle (Director of Corporate Support Services), J Gilbert (Director of Environment and Street Scene), I Willett (Assistant to the Chief Executive), K Polyzoides (Assistant Director (Policy & Conservation)), C Pasterfield (Principal Valuer/Surveyor), I White (Forward Planning Manager), S G Hill (Senior Democratic Services Officer), T Carne (Public Relations and Marketing Officer), A Hendry (Democratic Services Officer) and M Jenkins (Democratic Services Assistant)

By Invitation: K Moore

11. WEBCASTING INTRODUCTION

The Chairman reminded everyone present that the meeting would be broadcast live to the Internet, and that the Council had adopted a protocol for the webcasting of its meetings.

12. SUBSTITUTE MEMBERS

It was noted that Councillor G Shiell had substituted for Councillor J Philip and that Councillor T Cochrane had substituted for Councillor Angold-Stephens.

13. DECLARATIONS OF INTEREST

The Acting Chief Executive declared a personal interest in agenda item 7 'Review of Chief Executive appointment process' and indicated that he would stay for the hearing of the item.

14. MINUTES

RESOLVED:

That the minutes of the last meeting of the Committee held on 7 June 2012 be agreed.

15. CALL-IN FOR ASSET MANAGEMENT AND ECONOMIC DEVELOPMENT PORTFOLIO HOLDER REPORT

The Committee considered the call-in of Portfolio Holders decision AMED-002-2012/13 regarding the outline planning application for the redevelopment of Pырles Lane Nursery for residential use. The call-in was concerned about the apparent lack of consultation with ward members; they also had concerns about road safety issues for both vehicles and pedestrians going to and from the site; they noted that approximately two thirds of the site was designated as urban open space on the current Local Plan so the proposal would pre-empt consultation on the new Local Plan; and they wanted to know if there had been a cost benefit analysis done on the future of the nursery.

The lead member of the call-in Councillor David Wixley was asked to open the discussion. He said that he would talk to the first three points. He was the local ward councillor for this proposed project. This was a big issue for local residents as a lot of their properties backed on to this site. In 2011 a petition was submitted, it had been signed by the residents of the 31 households to be affected; nothing happened until September 2011 when an item appeared on a Cabinet agenda. He then asked for a site visit but this did not happen. He did however, get some feedback from the Portfolio Holder at the time and he again asked for a site visit. Come the change of cabinet members in May 2012 he felt that he had been excluded, although since then he had discussed this with the new Portfolio Holder, but she had nothing further to report.

He made a plea that if a similar situation arose in the future the ward members should be consulted, and again he made a plea for a site visit to be arranged for this application.

He went on to address the road safety aspects of the call-in. This site had a concealed entrance situated on a bend in the road, which was covered in vegetation with a couple of busy road junctions nearly opposite. This gave major concerns for road safety and for the safety of pedestrians. One of the major problems on this was the sight lines and this should be given serious consideration as a safety issue.

He then addressed the third point and noted that two thirds of the site was adjacent to Hilly Fields which was designated as an urban open space and the proposed site was an extension of this space. It was inappropriate for EFDC to develop here.

Another signatory of the call-in, Councillor Jennie Hart took up the point of the lack of a cost benefit analysis. She indicated that it was difficult for members to know if this was done. She had a copy of a report issued in June 2011 for a Cabinet meeting – but this was withdrawn at the last minute. This should be reissued again for any new members who had not seen it. Has the economic side been considered, we can see what the economies were but have the benefits been considered? The only benefit she could see would be to the Dutch and Italian growers and none to our own nurseries here. With this loss would come a corresponding loss of skills from our workers. Importing plants when we could grow them was a dangerous policy. Why should we lose the nursery and the employment it brings, the training it gives to students and the loss of business? If anything the nursery should be expanded, but not necessarily on that site. There were good economic possibilities for a well run nursery.

We also needed good community involvement, to encourage people to use open spaces to grow vegetable etc., this would make the district into a forward looking authority.

The responsible Portfolio Holder, Councillor Ann Grigg, was then asked to make her opening statement. She noted that it was a decision for the Portfolio Holder and not the person occupying the post. Her predecessor had set out his views in emails with the ward members and taking their concerns into consideration had the design of the roof changed. When she became the Portfolio Holder she asked officers if the ward councillors had been consulted and was told that they had been. She was also made aware of the petition.

If a planning application had been submitted then the Council would have gone to formal consultation in the usual way. At this stage this was just an outline planning application.

She would be happy to have a site visit.

As for the second point, road safety; a highways consultant had been engaged and they investigated the visibility aspects of the site, noting that the vegetation had to be cut back and that the kerb line had been flattened previously. They also carried out a speed survey. Essex County Council accepted the highway consultant's conclusions that the entrance could be made safe.

60% of the site was in urban space and the proposal was to put the houses there and also have a planned area of community space. This would be considered as part of the planning process. The Council will, of course, make a planning application in the normal way.

Also, as this was still an outline application, the point of a cost benefit analysis was not relevant to this decision. If it did go through, it could generate a good capital receipt.

The Director of Environment and Street Scene added that the report mentioned by Councillor Hart about the provision at nursery services was withdrawn at the June 2011 Cabinet meeting because of concern of how this decision fitted in around the other decisions to be taken on depot relocation and the need to ensure some degree of certainty on how these projects were taken forward. The opportunity arose for reconsideration of how nursery services were provided. Some of these changes would have been made in any event because of retiring staff, enabling us to review how the service was provided. Nothing else will happen until we are clear about its eventual relocation. The work they do continues and will continue under any revised arrangements. The report that Councillor Hart referred to did have a kind of cost benefit analysis in terms of the savings that would accrue to the council by altering the way in which we deliver nursery services. But what happens in the long term was caught up in depot rationalisation as a whole.

Councillor Girling was concerned that Highways site visits would happen at a certain time of day and not necessarily at the busier times. The site had very limited sight lines. More than one site visit should be carried out by Highways especially at the peak/rush hour times.

Councillor Satin said that she agreed with the Portfolio Holder about the consultation having been carried out. As for road safety, this would be covered and taken further when the Planning application went forward. There would be a community open space contained in this application, as well as gardens of the houses. As for point 4 of the call-in this was not the only nursery in the district, there were lots of others and the skills gained from this nursery would not be lost. This scheme has been discussed for a long time. We should use this land for much needed housing in the

district. It would be better to keep some sort of nursery, but maybe a on a smaller scale.

Councillor McEwen commented that it was reasonable for councillors to have a site visit and she supported that.

Councillor Smith said that this scheme had been discussed for some time under various scenarios. We were not dealing with the closure of the nursery and are supportive of the nursery function and are also supportive of the Portfolio Holder's decision.

The lead member responsible for the call-in and the Portfolio Holder were asked to sum up the debate.

Councillor Wixley said he was pleased that his comments on the design of the roof had been taken on board. He would make other comments when it was a formal planning application. He would like to see a report on the Highway issues raised here tonight and he was still concerned about the pre-empting of the Local Plan and would like an answer to that.

Councillor Grigg summed up by saying she was happy to arrange a site visit. She noted that a lot of the issues raised by Councillor Girling on highway matters were more applicable to a planning application. Officers had advised her on predetermined issues around the Local Plan and she had followed the same guidelines as all members.

She would send a report on road safety to Councillor Wixley when she had it and again said that she believed that Ward Councillors had been consulted and that the nursery would be moved to purpose built accommodation.

RESOLVED:

That the Overview and Scrutiny Committee confirmed the original decision of the Portfolio Holder on report AMED-002-2012/13 regarding the Pyrles Lane Nursery, Pyrles Lane, Loughton.

16. CALL-IN LOCAL PLAN CONSULTATION

The Committee considered the call-in of a decision of the Local Plan Cabinet Committee regarding the Statement on Community Involvement. This related to the Committee's decision that the Statement of Community Involvement be consulted on for a period of 8 weeks from 30 July to 21 September 2012. The call-in was concerned that a significant part of the consultation was during August when most residents were away; that this was only two weeks extra to the statutory minimum for this consultation; that the timescale for road-shows did not permit sufficient time for informed responses from the residents; and lastly that changes of the committee's Terms of Reference meant that councillors would not be aware that the committee had decision making powers.

The lead member of the call-in, Councillor Wagland was asked to open the discussion. She started by saying the Local Plan would be the most important document to be produced by the council for the next two decades. Once something has been put into the plan it would be an uphill struggle to roll it back.

The issues and options stage was an important one and the question was how long we should give residents to read and digest the information and to respond. The

Portfolio Holder had acknowledged that the statutory six weeks was not good enough and had proposed eight weeks. We could ask what a reasonable person would think of this and she had talked to residents who said that we were not serious knowing how important this was to them. The consultation on both the Gypsy and Travellers' directive sites and the St John's site got thousands of responses and eight weeks in her view was not enough time to consult. This should ideally last for 12 weeks, but up to the October half term break, the 13th October would be acceptable.

She realised we need to do the Local Plan as soon as possible but it must be sound; the evidence base of the resident's response must provide this base, we need their input.

The Council did not like the original draft National Planning Policy Framework (NPPF) as government advice on planning policy which it would have to use without a Local Plan. Thanks to officers and the past Portfolio Holder, the government appears to have listened and the final NPPF is a much better document.

Much of the Council's own plan would hold good if we did not meet the government deadline to adopt the Local Plan and we would have to go for a default option. So what harm would 12 weeks do? However, if you do not want to extend to 12 weeks we are willing to go for a 13 October deadline.

Councillor McEwen, a signatory of the call-in thanked the officers for all their work. She accepted that two weeks extra was given but that did not cover lost time in August. Parish/Town Councils would not have the time to consider this as they do not meet in August. Also the road-show for Ongar was due to be held in August. August was not a good time for this. People will want to comment on this especially in the rural areas, but they need more time, as August was a dead month. We should extend to 13 October for reasons of fairness.

Councillor Watson, another signatory, added we should not have consultations scheduled during school holidays. People would say we did this in order not to receive any replies. She had looked up the 165 page document and people will have to read all of it to know if anything needed to be considered and commented upon. They should not just look at their immediate area but must look at it as a whole. This was the most important document for 20 years and it would be wrong to squeeze the consultation into such a short time.

Councillor Mohindra a signatory, added that most of the road-shows did not start until September. It would be interesting to see how effective they were as they were being held during the day as a lot of people commute / work during the day. Developers would be getting their input in on time, but our residents will also need to have their voices heard. It was only fair we allow our residents more than the three weeks in September to respond to us.

Councillor Gadsby, a signatory, noted that the workshop for Waltham Abbey was not until September, and because of this she would like an extension to 13 October.

Councillor Smith, a signatory, added that the call-in system was at its best for this type of strategic issues. Officers had indicated that they would need time to analyse the responses from the consultation process, could we shorten this period and increase the consultation time.

As for the smaller parishes and the ability to respond, our next Parish meeting will be on the day the consultation was due to close. We would want to see the road show

first. This is an appeal to the Portfolio Holder, because of the concern expressed, to lengthen the consultation period to give people time to respond.

The responsible Portfolio Holder, Councillor Bassett was then asked to make his opening statement. He said that it was difficult to strike a balance on this. He had produced an information document and had tabled it tonight. The call-in gives a chance for issues to be aired. The Council must engage with people to enable them to start to understand the bigger issues. All the documents were available for people to see and we have pre-released as much information as we could; Parishes have already begun discussing this. Information has been out since 18 June and anyone can call us and question officers. This has also gone into the Local Press.

I understand that there could be a large response and we are open to go to the parishes and talk to them. We understand that it was a long term document, but this was only the first consultation period; there will be three. This is just the issues and options – not the final plan. As for the changes to the terms of reference; we were concerned that too many decisions were being made by the Portfolio Holder; more decisions would now go to Cabinet Committees. Once the consultation was in we would be taking it to local parishes and discussing it with them. There are no hidden agendas, no secrets. We are open to any response, but we do need to put some sort of timetable to this process. Hopefully you all understand this.

Councillor McEwen said she understood the timescale, but to include August was not being fair to the public. We would not get a good response as August was the month for holidays.

Councillor Kane commented that the council often gets criticised that it makes decisions without consulting. It was important that we give them (the public) enough time to respond because of the complexity of the information involved.

Councillor Gadsby added that they have not heard anything in Waltham Abbey about this.

Councillor Jacobs sympathised with the call-in, the shorter we made the period, the more we would be criticised. He noted that the South East would take a lot of pressure because of the population increase.

Councillor Wixley felt that the council were in a difficult position; they were put here by the government's timetable but were concerned of the risk if we did not get the plan in on time.

Ian White, the Forward Planning Manager, commented that the timetable was extremely tight and the consultation would generate more responses than the Gypsy and Travellers consultation as it genuinely affects the entire district. We have to look at all reasonable options and have put forward options for development around the entire boundary. And yes, it was a tight timescale.

Councillor Wixley asked what the risk were if it were not done on time. Mr White replied that there were a number of potential development schemes already around the Harlow boundary and he was fully expecting a submission of an application in the region of 1300 houses on a site on the Harlow boundary, probably in September or October this year and that may be the first of many.

Councillor Sartin agreed that the council was working to a tight timescale and that not everyone goes away in August, some go in September. There will always be a problem with something like this. There was a need to move this forward – she would

not like it extended to 12 weeks, but had heard of a 13 October finish as an alternative.

Councillor Jacobs having heard the officer say that the situation was pressing, would prefer a compromise of a two week extension.

Karen Moore, a consultant from Fortismere Associates, said it was important to point out the next stage after Issues and Options was not the final plan. If this was extended we would have to add on, in effect, a further two or three months to the end of the programme.

Councillor Jacobs asked if the parishes had been notified and were we likely to meet the deadline. Councillor Bassett replied that they have informed them of the process and what they needed to do. They have also provided information for their members. Some are more ready than others. It's a balancing act; we have given them information up to 6 weeks before the consultation started.

Councillor Webster said that this had been flagged up at Waltham Abbey and they had agreed to have two meetings in August to discuss this. Town and Parish Councils should be encouraged to meet in August.

Councillor McEwen asked if these expected applications would come in the autumn regardless of the consultation. She was told that they would.

The lead member responsible for the call-in and the Portfolio Holder were asked to sum up the debate.

Councillor Wagland said that tonight's debate had made her case for her. We need everyone to respond to this. Residents need to respond to this as a whole district consultation. This was not just about August.

The press are bemused by it. The Cabinet Committee meeting was not webcast. This is a legacy issue, a most important matter. We now have the NPPF which offers some protection and our own existing plan, which will hold good to a large degree, no matter if we meet the April deadline or not.

She believed passionately in this process. It matters that a lot of people will recognise the timescale only once they have seen the road-show.

Councillor Bassett summed up by saying he came into this with an open mind. We have a predetermined timetable based on as much information we could give. The consultation had already started and they were already getting feedback. He understood all the concerns raised and he was willing to extend the deadline by two weeks, which would take it to about 5 October (as suggested by Councillor Jacobs earlier); a fair compromise.

Councillor Wagland was asked to respond to Councillors Bassett's proposal.

Councillor Wagland said that she had asked for a 13 October deadline, the Portfolio Holder has said 5 October, seems to be no big difference, but the half term was coming up. But if the committee was amenable to 5 October then she would agree.

Councillor McEwen proposed that the consultation period be extended to 13 October, on the grounds that August was a holiday month, it allowed more time for the road shows and more debate. This was seconded by Councillor Gadsby.

Councillor Mohindra pointed out that 13 October was a Saturday and it should be 12 October, a Friday as the last day. This was accepted by the Committee. He also proposed that all the Local Plan Cabinet meetings be webcast from now on. This was also agreed.

RESOLVED:

1. That the decision be referred back to the Portfolio Holder and Local Plan Cabinet Committee for further consideration;
2. That the consultation period for the 'Statement of Community Involvement - Issues and Options' is recommended to be extended to 12 October 2012. This was because August was a holiday month; it would also allow more time for road shows and enable more debate; and
3. That all Local Plan Cabinet Committee meetings be webcast from now on.

17. CHANGE TO FINANCE AND PERFORMANCE MANAGEMENT STANDING PANEL'S TERMS OF REFERENCE

The Committee received a report from the Finance and Performance Management Standing Scrutiny Panel summarising the items considered at their last meeting, but specifically asking for agreement to changes to their terms of reference.

The Committee noted that:

- They had suggested the removal of reference to 'statutory' performance indicators as all nationally applied indicators ceased in 31 March 2011;
- They had proposed the deletion of the requirement to develop proposals for an annual community conference;
- They had suggested the removal of the specific references to the Council's web-casting system from its ICT related terms of reference as it had responsibility for monitoring and reviewing progress on all ICT systems;
- That they did not consider it necessary to retain reference to Task and Finish Panels within their value for money terms of reference, and instead proposed recommending as necessary to the Finance and Performance Management Cabinet Committee where detailed value for money work may be required;
- They further suggested the removal of reference to Local Area Agreements from their terms of reference as these formal joint working arrangements were abolished during 2010/11; and
- They proposed updating the Panel's equality related terms of reference to reflect the recent adoption of the Council's equality objectives for 2012/13 to 2015/16 and the cessation of requirements for the production of Race, Gender and Disability Equality Schemes.

RESOLVED:

That the amendments to the Finance and Performance Management Scrutiny Standing Panel's Terms of Reference be agreed.

18. REVIEW OF CHIEF EXECUTIVE - APPOINTMENT PROCESS

The Committee noted that the Council had requested that Overview and Scrutiny conduct a review on the processes adopted in respect of the recruitment of a new Chief Executive. It was emphasised that they were not seeking a review of the

outcome of the recruitment exercise but the processes adopted to achieve an appointment.

This came from a review report submitted to the Council on 14 February 2012 by Overview and Scrutiny on senior level appointments within the Council. One of the recommendations of that review was that there should, after every such recruitment exercise, be an opportunity for Overview and Scrutiny to examine how the process was conducted and whether there were any learning points for the future. They should consider the recruitment pack, the recruitment advertisement, detail of the recruitment centre, the decision making process and the provision of external legal and external/internal HR Advice. Also to be considered would be feedback from members of the original Panel, applicants, the Council's recruitment consultant and any officers involved in supporting the process. They may also wish to consult all Members of the Council as the appointment of a Chief Executive was a matter reserved to the Council itself.

The Committee thought that it would be appropriate that the original panel on the senior management appointments panel be asked to carry out this review. The original members were Councillors K Angold-Stephens (Chairman), R Bassett, Mrs A Grigg, D Stallan and J M Whitehouse. It was requested that these members be approached to ask if they were willing to sit on this Panel.

The Committee requested that the Panel report back no later than mid October.

RESOLVED:

- (1) That a Task and Finish Panel be established to carry out review of the process adopted for the Chief Executive appointment, as requested by the Council;
- (2) That the Terms of Reference should include the matters listed above;
- (3) That the Panel should consist of Councillors K Angold-Stephens (Chairman), R Bassett, Mrs A Grigg, D Stallan and J M Whitehouse; and
- (4) That the Panel should report back by mid October 2012.

19. APPOINTMENT TO STANDING PANEL

The Committee noted and agreed the amendment to the composition of the Safer Cleaner Greener Standing Scrutiny Panel.

RESOLVED:

That the membership of the Safer Cleaner Greener Standing Scrutiny Panel be amended from Councillor P Keska to Councillor H Brady.

20. WORK PROGRAMME MONITORING

O&S Work Programme

Item 10 – the Committee noted that the Corporation of London had been lined up to attend the September meeting and were asked to clarify what they wanted covered by Mr Thompson in his presentation. The Committee asked that the following be covered:

- The new visitors centre;
- The downgrading of High Beech; and

- The Forest Festival used to be in September and had recently been cancelled – would it be resurrected.

Also to be invited would be a representative from Friends of Epping Forest.

The Committee also thought they would like to have a special meeting at 7pm, before the start of the scheduled Committee meeting, to agree on their questions to be asked and the tack they would like to take as a Committee.

Housing Standing Panel

The Committee noted that they had a full work programme for the year and that an extra meeting had been scheduled for 7 August 2012.

Constitution and Member Services Standing Panel

The Committee noted that the item on employment procedure rules would be going to their September meeting. They had already covered the review on substitution rules at their first meeting.

An extra meeting had been scheduled for 7 January 2013.

Safer Cleaner Greener Standing Scrutiny Panel

It was noted that the Nottingham Declaration had a change of name and emphasis and this would affect their Terms of Reference. A report would be coming to the next O&S meeting asking for this change to be agreed.

Planning Services Standing Scrutiny Panel

The Committee noted their programme of work for the year.

Finance and Performance Management Standing Scrutiny Panel

This had been reported on earlier in a written report.

Overview and Scrutiny Review Task and Finish Panel

Research was being undertaken by Connor Lattimer and a report was being written. A meeting was to be arranged in the near future.

21. CABINET REVIEW

The Committee reviewed the Cabinet's agenda for their 23 July meeting but there were no specific items that the Committee wanted to be brought to their attention.

CHAIRMAN

Overview and Scrutiny Work Programme – August 2012

Overview and Scrutiny Committee			
Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
(1) Scrutiny of London Underground Ltd	To invite back September or October 2012	Last completed in July 2011. To review the Olympic Travel plans and problems arising.	07 June 2012; 17 July; 04 September; 16 October; 27 November; 29 January 2013; 5 March; and 09 April
(2) OS Annual Review/ Annual Report	June 2012	Completed - 2011/12 Final draft report went to the June 2012 meeting.	
(3) Scrutiny of Epping Forest Local Strategic Partnership – Chairman and Member level EFDC representatives	January 2013	Last completed in January 2012 - Representatives of the partnership to report on an annual basis.	
(4) Scrutiny of Cabinet Forward Plan	To review again in the new municipal year.	Last looked at in October 2011	
(5) Six monthly review - (a) Monitoring of OS recommendations (b) OS work programme	For November 2012	Last completed in November 11	

(6) To review the strategic direction of Epping Forest College, its vision for the future and its relationship with the Community	For the 2012/13 municipal year	Last Completed in April 11 when the Principal of Epping Forest College addressed the April 2011 meeting.	
(7) Budget Report	For January 2013	Last completed in January 2012	
(8) To receive a presentation from Youth Council members	November 2012	Last Completed in Nov 11 - As last year, members of the Youth Council attended with proposals for their funding bid for 2012/13 and gave an update on their programme of work.	
(9) Broadband access in the District	TBA – An Interim report went to the February '11 meeting. Now waiting to get Service providers to a 2012 meeting.	BT and one other service provider to be asked to address the O&S Committee on access to broadband and speeds for the Epping Forest District Area. Also, to get the appropriate County PH to attend to discuss their rollout of broadband connections to the district.	
(10) Corporation of London	For September 2012	To receive a presentation on the management of the Epping Forest. A representative from 'Friends of Epping Forest' to be invited as well.	

(11) Essex Police Service	To review in 2013	With the current financial difficulty for statutory services and the new Police and Crime Commissioner starting November the Committee would like to see representatives of the Police to discuss their new budget, procedures and relationship with the PCC and if possible to get the PC Commissioner to attend.	
(12) Key Objectives 2011/12	Outturn report went to the June 2012 meeting.	Last Completed: Outturn report for 2011/12 submitted to the June 2012 meeting. Six monthly progress reports in respect of the annual Key Objectives are made to the Cabinet and the Overview and Scrutiny Committee.	
(13) Key Objectives 2012/13	Progress report to go to the November 2012 meeting	Six monthly progress reports in respect of the annual Key Objectives made to the Cabinet and the Overview and Scrutiny Committee. Progress report for 2012/13.	
(14) To review the new organisational make up of the PCT/ West Essex Health Service and the progress made on the commissioning of local health services.	For 2013 Connected to item 16	Last looked at in March 2012– It would be useful to look at this next year, after the Bill had gone through Parliament. Noted that County were also looking at this topic.	
(15) To meet with Essex County Council in respect of Children Services and on annual basis, with the attendance of the Director of Children's Commissioning.	To schedule again for Oct 2012	Last came in March 2012 - Recommendation taken from the Children Services Task and Finish Panel. To invite an Officer and the Portfolio Holder. To review again in 6 Months time.	

(16) Mental Health Services in the District.	Sometime in 2012 Connected to item 14	To consider the state of the Mental Health Services in the District	NEW
(17) Review of Highways	To review when the service had settled down.	To invite the County Portfolio Holder for Highways or the appropriate officers to speak on the changes that has been made in the past year. Particularly the relationship between Highways, the District and the Public and how the Council could contact the Highways officers.	NEW

Standing Panels			
Housing Standing Panel (Chairman – Cllr S Murray)			
Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
(1) Issues relating to the implementation of new licences for park home sites	June 2012	COMPLETED	
(2) Annual Ethnic Monitoring Review of Housing Applicants	July 2012	COMPLETED	Extra-Ordinary Meeting 28 June 2012
(3) Annual Report on the HomeOption Choice Based Lettings Scheme	July 2012	COMPLETED	24 July 2012; 7 August
(4) Housing Performance Indicators – 2001/12 Out-turn (Tenant Selected & KPIs)	July 2012	COMPLETED	23 October; 22 January 2013 and 19 March
(5) Homelessness Strategy – Revision and Update	July 2012	COMPLETED	
(6) West Essex Tenancy Strategy – Consultation Draft	July 2012	COMPLETED	
(7) Response to CLG “Pay to Stay Consultation Paper”	July 2012	COMPLETED	
(8) Presentation by Mears – Repairs Management Contract – One Year On	August 2012	COMPLETED	

(9) Results of the Tenant Satisfaction Survey 2012	August 2012	COMPLETED	
(10) Housing Strategy Action Plan 2012/13	August 2012	COMPLETED	
(11) Performance against Housing Service Standards and Review	August 2012	COMPLETED	
(12) 12 Month Progress Report on Housing Strategy Action Plan 2011/12	August 2012	COMPLETED	
(13) Six Month Review of the HRA Financial Plan	October 2012		
(14) Six monthly Progress report on Housing Business Plan Action Plan	October 2012		
(15) Adoption of EFDC's Tenancy Policy	October 2012		
(16) Housing Service Strategy on Home Ownership (Review and Update)	October 2012		
(17) Housing Service Strategy on Rent Administration (Review and Update)	October 2012		
(18) Housing Service Strategy on Repairs and Maintenance	October 2012		

(19) Housing Service Strategy on Energy Efficiency (Review and Update)	October 2012		
(20) Housing Service Strategy on Under Occupation (Review and Update)	October 2012		
(21) Housing Service Strategy on Equality and Diversity (Review and Update)	October 2012		
(22) Annual Review of the Housing Allocations Scheme	January 2013		
(23) Briefing on the Proposed Council rent increase for 2013/14	January 2013		
(24) Six monthly Progress report on Housing Strategy Action Plan 2012/13	January 2013		
(25) Proposed housing service improvements and service enhancements, as a result of the additional resources available from HRA self financing	January 2013		
(26) Housing Service Strategy on Housing Advice (Review and Update)	January 2013		
(27) Housing Service Strategy on Allocations (Review and Update)	January 2013		

(28) HRA Business Plan 2013/14	March 2013		
(29) Six Month Review of the HRA Financial Plan	March 2013		
(30) 12 Monthly Progress Report on Housing Business Plan Action Plan	March 2013		
(31) Housing Service Strategy on Tenant Participation (Review and Update)	March 2013		
(31) Housing Service Strategy on Harassment (Review and Update)	March 2013		

Constitution and Member Services Standing Panel (Chairman – Cllr Mrs M Sartin)

Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
(1) Review of May Elections	16 July 2012	COMPLETED	16 July 2012; 25 September; 4 December; and 7 January 2013 26 March
(2) Complaints Panel - Jurisdiction	16 July 2012	COMPLETED	
(3) Review of Substitution at Meetings	16 July 2012	COMPLETED	
(4) Audit and Governance Committee – review of Constitution	16 July 2012	COMPLETED	
(5) Employment Procedure Rules – Revision/Staff Appeals Panel Terms of Reference	25 September 2012 (Provisional)		
(6) Electronic Delivery of Agenda	25 September 2012		

(7) Review of Petitions	25 September 2012		
(8) Review of the Protocol on Officer/Member Relations	4 December 2012		
(9) Review of Annual Council	4 December 2012		
(10) Review of Portfolio Holder Assistants as Members of Audit and Governance Committee	4 December 2012		
(11) Housing Appeals and Review Board – Review of Order of Presentation	7 January 2013		
(12) Review of November 2012 Elections	7 January 2013		
(13) Contract Standing Orders – Two Review Items	26 March 2013		
(14) Review of Financial Regulations	26 March 2013		
(15) Review of Officer Delegation (Including delegation of direct action under Section 178 of the Town and Country Planning Act 1990)	26 March 2013		

Safer, Cleaner, Greener Standing Panel (Chairman – Cllr Mrs J Lea)			
Work Programme 2012/13			
Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
(1) SCG Strategy enforcement activity	October 2012	Six monthly report to Panel	40 July 2012;
(2) SCG Strategy Action Plan approve	April 2013	Annual review of Action Plan	30 October 2012;
(3) SCG Strategy Action Plan review	July 2012	Six monthly report to Panel	08 January 2013;
(4) CCTV action plan review	July 2012	Six monthly report to Panel	12 February 2013;
(5) CSP scrutiny review meetings	April 2013	Report after 2 special Safer Communities meetings	02 April 2013
(6) CSP Strategic Assessment review	October 2012	Six monthly report to Panel	Crime & Disorder Scrutiny meetings –
(7) Appointment of PCC	January 2013	Report following election of PCC in November 2012	The 2 meeting dates are October 2012 and February 2013
(8) Police resources and the Olympic Games	October 2012	Report following completion of Olympic Games	
(9) Receive notes of Waste IAA Member meetings	minutes for 10 May 12 received at July meeting	Notes reported to Panel at first available meeting following receipt	
(10) Receive notes of Waste Management Partnership Board		Notes reported to Panel at first available meeting following receipt	

Safer, Cleaner, Greener Standing Panel (Chairman – Cllr Mrs J Lea)			
Work Programme 2012/13			
Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
(11) Progress against Nottingham Declaration – now the Climate Local Agreement.	July 2012	Six monthly report to Panel	
(12) Progress against carbon reduction strategy	July 2012	Six monthly report to Panel	
(13) Receive notes of Bobbingworth Nature Reserve liaison group	minutes for 28 March '12 received at July meeting	Notes reported to Panel at first available meeting following receipt	
(14) Recycling in flats and multi-occ. dwellings	July 2012	Report went to July meeting	
(15) Solar panels in Council owned properties		Under further consideration pending changes by government to feed-in tariffs – verbal update to July's meeting.	
(16) Review of EA flood management of River Roding		To receive an updating report on the wider implications, once known, of the EA strategy on flood management in the Roding catchment area.	
(17) Review of waste contract ahead of next procurement	January 2013	To scrutinise how the new SITA contract would be framed for 2014. Contact extension with Sita now completed and sealed. Contract now in place until 4 November 2014. A procurement exercise for a new contract will need to commence in early 2013.	

Safer, Cleaner, Greener Standing Panel (Chairman – Cllr Mrs J Lea)
Work Programme 2012/13

Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
(18) Fire & Rescue Services	January 2013	Fire and Rescue Services to address the meeting regarding the implications of their budget reductions. To be tabled for sometime after the Olympic Games	
(19) Monitor Local Highways Panel	October 2012	Once established to keep a watching brief on the effectiveness of the new Local Highways Panel	
(20) Update on Floods for the Year	January 2013	Members of the Panel agreed that they would like to have an update in the winter on the rainfall experienced this year and to update the panel on the current arrangements.	

Planning Services Standing Panel (Chairman – Cllr J Wyatt)			
Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
1. To consider and Review Measures taken to Improve Performance within the Directorate	16 April 2013		12 June 2012; 11 September Cancelled 11 December; and 16 April 2013
2. To consider and Review Business Processes, Value for Money and Staffing arrangements for the Directorate: a. To consider the Financial Review (Bus Plan Section 3b) b. To consider the Business and Environmental Review (Appendix Business Plan) c. To consider the Directorate Value for Money Statement (Business Plan Section 4 (f))	11 December 2012		
3. To monitor and receive reports/updates on the delivery of the Local Plan: a. To report on the progress of the Local Plan b. To provide further updates on the Local Plan	Minimum verbal report at each meeting		

4. To monitor and receive reports/updates on the Planning Electronic Document Management System	11 December 2012		
5. To consider the Business Plan	16 April 2013		
6. To establish whether there are any resource implications arising out of the topics under review and advise Cabinet for inclusion in the Budget Process each year. To provide reports/updates as and when required.	11 December 2012		
7. To report to the Overview and Scrutiny Committee at appropriate intervals on the above.	To consider at each meeting.		
8. Any recent meeting of the Chairman and Vice Chairman of the Area and District Committees Invitation Panel	16 December 2012	Any recent meeting of the Chairman and Vice Chairman of the Area and District Committees Invitation Panel	
9. To receive a demonstration on the webcasting of Area Plans Sub-Committees	16 December 2012		
10. Section 106 Agreements	June 2012	COMPLETED	
11. Probity in Planning	June 2012	COMPLETED	

Finance and Performance Management Standing Panel (Chairman – Cllr A Lion)			
Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
(1) Key Performance Indicators – Performance Outturn 2011/12	Outturn KPI performance report to be considered at the first meeting of the Scrutiny Panel in each municipal year.	Completed - KPI outturn report for 2011/12 to be considered at the meeting in June 2012.	19 June 2012; 18 September; 20 November; 21 January 2013 – jointly with Fin. Cabinet Cttee; and 12 March
(2) Key Performance Indicators – Performance Monitoring 2012/13	KPI performance report to be considered on a quarterly basis.	Quarterly KPI performance report for 2012/13 to be considered at the meetings to be held in September 2012(qtr 1), November 2012 (qtr 2) and March 2013 (qtr 3).	
(3) Key Performance Indicators – Development of indicators set for 2013/14	Draft indicator set to be considered on the basis of third quarter KPI performance for 2012/13.	KPI proposals to be considered at the meeting to be held at March 2013 meeting.	
(4) Quarterly Financial Monitoring	Reports to be considered on a quarterly basis.	First quarter information to be considered September '12, 2 nd quarter in November '12 and 3 rd quarter figures at the March '13 meeting.	
(5) Annual Consultation Plan	Report considered on an annual basis. Report went to the June '12 meeting.	Completed - Consultation Plan considered at first meeting of each municipal year. Report last went to the June 2012 meeting,	

(6) Detailed Portfolio Budgets	Had last been considered at the January 2012 meeting of the Cabinet Finance Committee.	Considered at the January '12 of the Cabinet Finance Committee – Annual review of the Portfolio Holders Budgets. To go again to the January 2013 meeting.	
(7) Medium Term Financial Strategy	To go to the January 2013 meeting	To review the Council's medium term financial strategy - January 2013.	
(8) Equality and Diversity - Monitoring and Progress	Progress report considered at the first meeting of the Scrutiny Panel in each municipal year	Completed - Progress report for the 2011/12 to be considered at the meeting to be held on 19 June 2012	
(9) Capital Outturn 2011/12 and use of transitional relief in 2011/12	Went to the June '12 meeting	Completed - Last considered at the June 2012 meeting	
(10) Provisional revenue Outturn 2011/12	Went to the June '12 meeting	Completed - Last considered at the June 2012 meeting	
(11) Fees and Charges	For the November 12 meeting	Last went to November 2011 meeting.	
(12) Sickness Absence	Quarterly Reports	Quarterly Figures of the Council's Sickness Absence figures. 4 th quarter figs. last considered at June 2012 meetings.	
(13) Value for Money & Data Quality Strategies.	September 2012	Last went to September 2011 meeting. Progress made against the Council's VFM and Data Quality Strategy.	

Task and Finish Panels

Overview and Scrutiny Review Task and Finish Panel (Chairman – Cllr Angold-Stephens)

Item	Report Deadline / Priority	Progress/Comments	Programme of Future Meetings
First meeting to define Terms of Reference.			To be arranged

Review of Chief Executive Appointment Panel Task and Finish Panel (Chairman – Cllr K Angold-Stephens)			
Item	Report Deadline / Priority	Progress/Comments	Programme of Future Meetings
First meeting to define Terms of Reference.		Panel to report by Mid October 2012.	To be arranged

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**Request by Member for Scrutiny Review
2012/13 Work Programme**



Please complete the form below to request consideration of your issue by the
Overview and Scrutiny Committee

Proposers Name: James Hart	Date of Request 17.8.12
Supporting Councillors (if any): Sylvia Watson	
Summary of Issue you wish to be scrutinised: I would like to propose that the ONS committee set up a task and finish panel to look into restructuring the running of the council's licensing committee on a trial basis for the 2013/14 council year. Specifically, the proposal is to consider licensing applications in a very similar way to the way in which planning applications are decided by the council:- <ol style="list-style-type: none"> 1) Move the meetings to the evening so that councillors with full time jobs can join the committee. 2) Create south, east and west licensing sub-committees so that local councillors with essential local knowledge can decide the cases. 3) In cases involving nightclubs, pubs or shops applying for changes to the hours in which they are licensed to sell alcohol, the relevant town, district and county councillors, and the nearest 50 residential properties to the application premises, should be informed by letter to make them aware that an application has been submitted. 	
NOTE: ENTRIES BELOW RELATE TO ISSUE CATEGORIES OF THE PICK PROCESS. PLEASE REFER TO THE EXPLANATORY NOTES TO THIS FORM FOR FURTHER INFORMATION	
Public Interest Justification: The current system is far from satisfactory given the size and diversity of the district. Under the current system it is not unusual for councillors drawn from the rural north of the district to be called upon to decide upon licencing applications that have a very big impact upon the lives of residents living in towns such as Loughton or Buckhurst Hill. The councillors deciding these cases may never even have visited Loughton or Buckhurst Hill late on a Friday or Saturday night and therefore lack the essential local knowledge to decide these cases. Many of the council's 58 councillors have full-time jobs and their working commitments prevent them from joining committees, like the licensing committee, that meet during working hours. The licensing of nightclubs and pubs, and the knock-on effect on our high streets on Friday and Saturday nights, is too big an issue to effectively dis-enfranchise working age councillors from attending these meetings and representing their ward members when these cases are decided by the council. The vast majority of local residents don't even know that a local nightclub or pub has submitted an application for extensions to their licensing hours until they read about the decision of the licensing committee in the local press. Many residents feel	

passionately about this issue and feel powerless to influence the outcome of cases. Evening meetings would enfranchise working age residents as well as working age councillors.

Impact on the social, economic and environmental well-being of the area:

Council Performance in this area (if known: Red, Amber, Green):

Keep in Context (are other reviews taking place in this area?)

Office Use:

Pick score:

Considered By OSCC:

Report to the Overview and Scrutiny Committee



Date of meeting: 4 September 2012

Report of: Constitution & Members Services Standing Scrutiny Panel

Chairman: Councillor M Sartin

Subject: Audit and Governance Committee (AGC) –
Article 11 of the Constitution

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

Democratic Services Officer: A Hendry (01992 564246)
Democratic Services Officer

Recommendations:

(1) That the following alterations to the terms of reference of the Audit and Governance Committee as set out in Article 11 of the Constitution be approved:

(a) removal of the requirement for the three seats for councillors on the Committee to be allocated according to pro rata rules;

(b) inclusion of new membership requirements for the three Councillor seats, namely:

(i) that the seats should be allocated so they are not all drawn from one political group and are also open to Councillors who are not affiliated to any political group;

(ii) that the three Councillors concerned should be appointed on the basis of experience, aptitude and interest on the recommendation of the Council's Appointments Panel;

(iii) that informal attendance and performance standards be operated in respect of the three Councillor members when re-appointment is under consideration by the Council's Appointments Panel;

(iv) that the Chairman and co-opted members of the Audit and Governance Committee be consulted informally about the appointment or re-appointment of Councillors at the appropriate time;

(c) appointment of the Chairman and Vice Chairman to be the responsibility of the Committee rather than the Annual Council meeting;

(d) the offices of Chairman and Vice Chairman of the Committee to be open to Councillors or co-opted members on an equal basis;

(e) co-opted members of the Committee to be subject to the same informal attendance and performance standards as apply to Councillor members of the Committee during their terms of office as set out in paragraph (b)(iii) above;

(f) co-opted members to serve for overlapping terms of three years subject to the following conditions:

(i) a maximum of two consecutive three year terms as of right subject to the attendance and performance review set out in (e) above on an annual basis; and

(ii) appointment for a third or subsequent three year term of office to be subject to success in open competition following a public advertisement;

(g) determination of starting dates for the new three year terms of office for the existing co-opted members to be delegated to the Audit and Governance Committee;

(2) That the revisions to Article 11 of the Constitution relating to the Audit and Governance Committee (as set out in Appendix 1 to this report) be recommended to the Council for adoption and publication in the Constitution; and

(3) That the attention of the Council be drawn to the legal requirement under the Local Government and Housing Act 1989 for the adoption of recommendation (1)(a) above to be approved with no member of the Council voting against.

Report:

Introduction

1. The constitution of the Audit and Governance Committee is set out in Article 11 of the Constitution. Previously, we were asked to look at the question of whether Portfolio Holder Assistants should be able, in view of their links with Cabinet responsibilities, to serve as members of the Audit and Governance Committee. We submitted proposals on this subject a few months ago and these were adopted by the Council.

2. As part of our consultations with the Audit and Governance Committee over the position of Portfolio Holder Assistants, the Committee also indicated a wish to look at the operation of Article 11 as it is now some years since the Audit and Governance Committee was first established. With this in mind, the then Chairman of this Panel together with the Assistant to the Chief Executive and other officers attended a meeting of the Audit and Governance Committee in order to establish the points which that Committee wished us to review.

3. This report is a result of our consideration of the Audit and Governance Committee's ideas and we were assisted in this process by having the Chairman of the Audit and Governance Committee as a member of this Panel and by the attendance of Mr R Thompson, one of its co-opted members at our meeting. The subjects covered in our review are set out below.

Balance between Councillor & Independent Members on the AGC

4. The first matter which we discussed and was the balance between co-opted members and Councillors on the AGC. We were asked to consider whether, bearing in mind the independent nature of the audit function, there should be a majority of co-opted members on the Committee. AGC told us that they were not necessarily opposed to a change in the balance of membership but felt that the independence required was not a matter of political or non-political affiliation but depended on the personal integrity of Councillors and co-optees alike to be open minded, objective and constructive.

5. Neither this Panel nor the AGC could call to mind any instance where political sympathies had come into a debate and therefore we concluded that there was no case for changing the balance of membership. **Page 38**

Number of AGC Members

6. We next considered the number of AGC members. AGC was happy with the present number but emphasised that as there were only a total of 5, there was a need for all to play a full part and show a good attendance record. We agreed with AGC that the number of members was correct and we also supported their comments about the need for a full and active involvement and attendance by its members. In our consultations with AGC members, we were attracted to the idea of setting informal attendance and performance standards to address the importance of full involvement in a small Committee. We also have reservations about increasing the number of members in that the importance of an informed and focussed approach is in our view better served by a small and involved membership.

7. We have therefore made proposals in our revisions to Article 11 for an informal attendance and performance standard to be introduced, both for Councillors and the co-opted members. We are proposing that there should be an opportunity for the co-opted members to comment on these matters to the Appointments Panel which deals with various Committee appointments each May. Our view is that if Councillors or co-opted members cannot give the necessary commitment, we think the Appointments Panel should have the opportunity to deal with any concerns when dealing with appointments.

Independence of the AGC

8. AGC was concerned about the public perception of their role as part of an independent audit function. They expressed concern to us about the way in which the appointment system for the three Councillor seats currently operates. We were advised that this is dealt with under the pro rata provisions of the Local Government and Housing Act 1989. AGC favoured a new system which did not rely on the pro rata procedure, and, instead gave more weight to experience, aptitude and interest. They felt that this would be the best way of achieving the levels of attendance and involvement that the work of the Committee demands. We agreed that the pro rata process could result in appointment of Councillors to the AGC being purely on the basis of filling political group entitlements and this could be seen as a risk factor for the effectiveness of that Committee.

9. We are therefore recommending that Article 11 should be amended so that the three Councillors will be appointed on the basis of their personal qualities rather than by simply relying on pro rata entitlements. In making this recommendation, we have been asked to stress both to the Overview and Scrutiny Committee and the Council that waiving the pro rata requirement on these appointments will require no member of the Council to vote against. If a member votes against the proposal to waive pro rata, our proposal would fall. We ask the Committee and the Council to bear this in mind in considering our report

AGC Chairman and Vice Chairman

10. We have reviewed the way in which the Chairman and Vice Chairman of the Committee are appointed. Currently both are appointed by the Council. There is also a rule which requires that the Chairman must be a Councillor and the Vice Chairman must be one of the co-opted members. AGC also felt that there was no clear reason why the Chairman should not be an co-opted member and, by the same token, that there was no real reason why the Vice Chairman should not be a Councillor. We also felt that the Council should avoid both the Chairmanship and Vice Chairmanship being held by a Councillor or co-opted member.

11. We discussed whether it would be preferable for the Chairman and Vice Chairman to be appointed by the Committee itself at its first meeting each year rather than at the Annual Council. We favour the former as this would emphasise the independence of the Committee, particularly as it could permit an independent member to be Chairman. We are therefore proposing an amendment to Article 11 with this in mind.

Separation of the Audit and Governance Functions

12. We looked at whether there were advantages in separating the audit and governance roles of AGC into separate Committees. At an earlier stage, the Panel carried out a survey of the practice of other Councils in Essex. We also bore in mind that the Government's proposals for statutory Audit Committees are still under consideration in Parliament. Although some Councils have separate Committees for some or all these responsibilities, none of them really convinced the Panel that there was a case for this kind of change.

13. AGC members doubted that there was a sufficient workload to justify two committees, that such a system would add to costs and require the recruitment of additional co-optees. We support their view and think that the present linkage between audit and governance is operating well and should not be changed until the Council has to review this in the light of statutory changes which the Government is planning.

Co-opted Members – Terms of Office

14. There was a concern that currently there is no restriction on the number of terms of office which can be undertaken by co-opted members. It is usual to set some kind of limit on the number of terms of office to ensure that the independent membership is "refreshed" over time. AGC suggested to us a three year term of office and that any co-optee should serve a maximum of two such terms as of right. The question arose about the third or subsequent term and we have concluded that a third or subsequent term of office should be allowable under Article 11 but only if the person concerned is successful after external competition takes place.

15. There are two co-opted members at present and if our recommendation is accepted, we recommend that their terms of office should be made to overlap to ensure that if one of them was to leave, continuity would be achieved through the other co-opted member. We are proposing that the Audit and Governance Committee itself should consider how the terms of office of the two existing members can be made to overlap in future years.

Article 11 – Proposed Amendments

17. The Appendix sets out the proposed revisions to Article 11. These are indicated in bold type and underlined. If the Overview and Scrutiny Committee support these proposals, they should report to the Council recommending adoption of the changes before they are published in the Constitution.

ARTICLE 11 - AUDIT & GOVERNANCE COMMITTEE

11.1 Title

The Committee should be entitled "Audit and Governance Committee" of Epping Forest District Council.

11.2 Purpose

The purpose of the Audit and Governance Committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process.

11.3 Authority

The Committee is authorised by the Council to:

- (a) investigate, or cause to be investigated, any activity within its terms of reference;
- (b) seek any information that it requires from any Member or employee of the Council, and require all Members and employees to co-operate with any request made by the Committee;
- (c) meet for despatch of its business, adjourn and otherwise regulate its business as it shall see fit, including approving items of business by the written resolution procedure set out in the Council's Constitution.

11.4 Role and Responsibilities

The Audit and Governance Committee will have the following roles and functions:-

- (a) To consider the effectiveness of the Council's Risk Management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
- (b) To seek assurances that action is being taken on risk related issues, identified by Auditors and Inspectors.
- (c) To be satisfied that the Council's Assurance Statements, including the Statement on Internal Control, properly reflect the risk environment and any actions required to improve it.
- (d) To agree the Council's Internal Audit Strategy Plan, Annual Audit Plan and monitor performance against all associated plans.
- (e) To review summary Internal Audit reports and the main issues arising and seek assurance that action has been taken where necessary.
- (f) To receive an Annual Report from the Chief Internal Auditor.
- (g) To ensure that there are effective relationships between External and Internal Audit, Inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
- (h) To review financial statements, including the Council's Statement of Accounts, External Auditor's opinion and reports to Members, and monitor management action in response to the issues raised by External Audit.
- (i) Review, and challenge where necessary, the actions and judgements of Management, in relation to the Council's Statement of Accounts, paying particular attention to:
 - (i) critical accounting policies and practices, and any changes to them;
 - (ii) decisions requiring a major element of judgement;

- (iii) the extent to which the financial statements are affected by any unusual transactions in the year and how they are disclosed;
 - (iv) significant adjustments resulting from the audit; and
 - (v) any material weakness in internal control reported by the Internal or External Auditor.
- (j) Consider other reports of External Audit and inspection agencies, which are relevant to the functions of the Committee.
 - (k) Briefing meetings for members of the Committee will be held as and when necessary separately and at least once a year with the External Auditor and Chief Internal Auditor.
 - (l) To consider performance and best value issues to the extent that they relate to the audit and control environment and risk management issues of the Council.
 - (m) To be responsible for the scrutiny of the Council's Treasury Management Strategy, including consideration of mid financial year and outturn reports.

11.5 Membership and Terms of Office

- (a) The Committee shall comprise 5 members, including 3 Councillors and 2 co-opted members.
- (b) **All Councillors serving as** members of the Committee shall be appointed at the Annual Council meeting of Epping Forest District Council for a term of office of one year and shall be eligible for re-appointment for further terms of office.
- (c) **Co-opted members shall serve for a period of 3 years from appointment. A co-opted member may serve for a total of two such terms as of right but may be considered for further terms of office, provided he or she is successful after open competition following public**

advertisement. Re-appointment for a second three year term shall be subject to satisfactory attendance and performance.

~~(e)~~(d) Casual vacancies for members of the Committee who are Councillors which occur shall be filled at the next ordinary Council meeting (but not an extraordinary meeting) with a term of office expiring on the date of the next Annual Council meeting.

11.6 Eligibility for membership

(a) Councillor members

Councillors appointed to the Audit and Governance Committee may not also be members of the Cabinet, any 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 primarily with the Council's finances) appointed by the Leader of the Council shall be eligible for appointment to the Committee.

Appointment of Councillors shall be made on the basis of evidence of the aptitude, experience or interest and for this purpose the normal rules for pro rata appointments shall not apply.

(b) Co-opted members

Co-opted members shall be appointed by the Council on the basis of their professional expertise, experience and background relevant to the role and responsibilities of the Audit and Governance Committee. Initial appointments of co-opted members and the filling of casual vacancies shall be made following public advertisement and interviews, the latter conducted in accordance with arrangements agreed by the Council. If the number of suitable applicants exceeds the number of co-opted places on the Committee, the Council shall keep a waiting list of suitable applicants should casual vacancies occur.

11.7 Chairman and Vice Chairman

(a) The Chairman and Vice Chairman of the Audit and Governance Committee shall be appointed at the first meeting of the Committee in each Council year. ~~each annual meeting. of the Epping Forest District Council from the District Councillors appointed as members of the Committee~~ for an ~~initial~~ term of one year expiring on the date ~~next annual Council meeting but will be eligible for reappointment for further terms of office.~~ of the first meeting of the Committee of the next Council year.

(b) Casual vacancies in the position of Chairman and Vice Chairman shall be filled in the same way as required in respect of members of the Committee (see paragraph 11.5 (d) above).

(d) Both Councillors and co-opted members serving on the Committee shall be eligible for appointment to the office of Chairman and Vice Chairman.

(e) Where the Chairman of the Committee is a Councillor, the Vice Chairman will be appointed from among the Co-opted members. Where the Chairman is one of the Co-opted members, the Vice Chairman shall be a Councillor.

(f) The Chairman and Vice Chairman shall be eligible for re-appointment.

11.8 Meetings of the Committee

(a) The Committee shall meet at least four times each year.

(b) All meetings shall be open to the press and public except where the Committee resolves that exempt or confidential business must be considered in private session.

(c) The Committee shall be entitled to require any Member, Heads of Service, their representatives or any other officer to attend their meetings in

order to discuss any matters under discussion including the annual audit programme.

11.9 Quorum

No business may be transacted at a meeting of the Committee unless there are two Councillor members and one co-opted member present.

11.10 Decision Making

(a) Only the Councillors and co-opted members serving on the Committee shall be entitled to vote.

(b) All members of the Committee shall be entitled to all documents advice and facilities relevant to their membership of the Committee, regardless of their status as either a Councillor or Co-opted member.

11.11 Other Requirements

(a) All members of the Committee shall respect the confidentiality of Council information and proceedings where appropriate, particularly where exempt or confidential business is involved.

(b) All co-opted members of the Committee shall be required to make a statutory registration of interests in the same form as those required of serving councillors and to be aware at all times of the requirement to clear any interest relating to their work on the Committee.

(c) Members of the Committee should seek to attend all meetings of the Committee unless there are exceptional circumstances which prevent this.

(d) All members of the Committee should ensure that they participate fully in any training designed to assist them in their responsibilities as members of the Committee. Similarly all members should act on appropriate advice and other information supplied by the Council to improve their effectiveness.

(e) It shall be competent for the Chairman of the Committee, after consulting members of the Committee and relevant officers, to make informal representations to the Council's Appointments Panel concerning the re-appointment of a Councillor representative

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Report to Overview and Scrutiny Committee



Date of meeting: 4 September 2012

SCRUTINY

Report of: Constitution and Member Services
Standing Scrutiny Panel



Subject: Members Complaints Panel – Limits of Jurisdiction

Chairman: Councillor M Sartin

Officer contact for further information: J Filby (01992 564512)

Committee Secretary: Mark Jenkins (01992 564607)

Recommendations:

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

Report:

Background

1. The Member Complaints Panel (CP) is responsible for considering complaints at Step 4 in the Council's complaints procedure. Certain types of complaints already fall outside the jurisdiction of the Panel and cannot therefore be considered at Step 4. These limits are published on page C23 of the Constitution as an annex to the terms of reference of the Complaints Panel.
2. These exclusions are:
 - (a) a complaint about a situation which arose more than 12 months before it was brought to the attention of the Council (unless new information has since been identified which would justify a further review of the complaint);
 - (b) where an alternative and formal right of appeal exists (e.g. Planning Appeal; Housing Appeal; Benefits Tribunal) and for which the complainant failed to exercise his/her right to appeal within the specified timescale, or has not yet appealed, or has already made such an appeal;
 - (c) matters which would best be dealt with by the Courts, e.g. Human Rights issues;
 - (d) matters which would affect the majority of the people in the Epping Forest District, e.g. a complaint that "the Council Tax is too high";

- (e) complaints for which a resolution could only be achieved through a change in the law, or a change in the policies of another organisation;
- (f) complaints about policies currently subject to a review, or about matters for which it has already been agreed that a policy needs to be reviewed or formulated. (Note – this exclusion does not preclude the consideration of a complaint about the way a policy has been administered, e.g. an allegation that a policy had been administered unfairly, or that the Council had fettered its discretion);
- (g) complaints about the frequency of delivery, or the level of a service which is subject to contract conditions (again, a complaint about the way a contract service has been delivered could still be considered by the CP);
- (h) where the customer elects to pursue legal action as a means of determining their complaint. (Note – this would not preclude the CP considering non-legal elements of a complaint, e.g. an allegation of unreasonable delay by the Council in undertaking a statutory or agreed course of action);
- (i) if, at Step 1, 2 or 3 in the complaints procedure, the complainant has already been offered the maximum remedy that the Complaints Panel is empowered to offer;
- (j) when there is no evidence that the complainant has suffered any harm or injustice even if there has been administrative fault by the Council;
- (k) if, at Step 1, 2 or 3 in the complaints procedure, the complainant has already accepted the proposed remedy and has formally confirmed that he or she has done so in full and final settlement of all of his or her complaints;
- (l) if, by going to Step 4, the complainant would then be left with insufficient time to subsequently submit a complaint to the Local Government Ombudsman within the Ombudsman's 12 month time limit;
- (m) if the complaint has already been determined by the Local Government Ombudsman.

Further Exclusions

3. In light of some complaints that were considered during 2011-12 we recommend that the following additional exclusions be applied:

- (n) **Where a complainant's claim for financial compensation or reimbursement has already been considered but rejected by an independent body which has the legal authority to determine such claims.**

Reason: we feel that the decisions of independent bodies (the courts; Land, Benefits and Rent Tribunals; insurers) take precedence over decisions of the Council so cannot be overturned by officers or Members.

- (o) **Where the complainant disagrees with a decision made by the Council but has neither suggested nor provided any evidence that there was any administrative fault in the way that decision was made.**

Reason: our view is that both the Council's complaints procedure and that of the Local Government Ombudsman can only determine if there was any administrative fault in the way a decision was made. For example, a failure to consider relevant information; a failure to

consult; unreasonable delay etc. If no administrative fault is found, the Ombudsman is not able to consider the merits of the decision, however strongly the complainant disagrees with that. The Council's complaints scheme is modelled on that of the Ombudsman. We feel that this additional restriction would bring the Council's complaints scheme into greater accord with that of the Ombudsman.

(p) Where the only remedy requested by the complainant is financial in nature and the amount requested is less than £150.

Reason: The minimum cost of a Step 4 review meeting is around £200 (Chairman's special allowance; Members' mileage costs, printing of documents etc). This cost can significantly increase if the meeting extends past 7.00 pm as officers would then also be entitled to an attendance allowance. We therefore feel that it is not cost effective to convene a Step 4 review if the remedy requested by the complainant is for less than £200. However an amount of £150 is recommended in order not to fetter the Council's discretion in determining whether such cases should proceed to Step 4.

4. Members are asked to note that, if complainants feel they have been wrongfully denied a Step 4 review, he or she is entitled to make that complaint to the Local Government Ombudsman.

Conclusions

5. We are of the view that these exclusions will assist in ensuring that Complaints Panel hearings can concentrate on complaints which have not been settled through the complaints procedure at officer level and avoids the Panel's time being taken up with repetitive complaints which have been dealt with previously, are vexatious or are trivial in terms of the redress which is actually available.

Next Steps

6. If the Committee accepts these recommendations, the Council should be recommended to make the relevant alterations to the Constitution.

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SCRUTINY



Report to Overview and Scrutiny Committee

Date of meeting: 4 September 2012

Subject: Substitutions at Meetings

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

Committee Secretary: Adrian Hendry

Recommendations/Decisions Required:

That a report be submitted to the Council recommending that the Appendix to Operational Standing Orders (Non Executive Bodies) be amended as follows:

- (a) to delete paragraphs 14 (1) and (3);**
- (b) to re-number paragraph 14 (4) as paragraph (1); and**
- (c) to amend paragraph 14 (2) to read as follows:**

“(2) It shall be competent for the Chief Executive, in circumstances where a political group notifies that a Councillor from that group will be temporarily unable to attend a Committee for a period of 8 weeks by reason of serious illness or other incapacity, to approve a substitute member and to report to the Council on action taken.”

Report:

1. The District Council’s Constitution allows for substitutes to be nominated for Committees, Sub-Committees, Panels, Boards and Groups (Operational Standing Orders – Non Executive Bodies (14) attached as an Appendix.

2. Following a request from the Overview and Scrutiny Committee on 11 April 2011, the Constitution and Member Services Scrutiny Standing Panel on 2 June, discussed the process of making substitutions for the Overview and Scrutiny and District Development Control Committees.

3. The Panel recommended that the procedure be amended to allow for substitutions to be made up until 30 minutes before the commencement of the meeting concerned. However, the Overview and Scrutiny Committee, on 12 July, amended this to allow substitutions to be made up until 60 minutes before the meeting. This amendment was adopted by the Council on 26 July 2011. Our recommendations that a review of this process take place in a year’s time, was also accepted.

4 At the Constitution and Member Services Scrutiny Standing on 16 July 2012, members discussed the review of the substitution process and felt satisfied with the current procedures. It was advised that use of the generic email address, “Democratic Services” for Group representatives for notifying officers at Democratic Services of substitutions, had not always been used by group representatives.

5 Members recommend that Operational Standing Order 14 – Non Executive Bodies should be amended as paragraphs 1 and 3 were no longer felt needed, it should be for the Chief Executive to undertake these tasks. With this in mind paragraph 14(2) has been reworded to set out the duties of the Chief Executive and the circumstances under which he can act.

OPERATIONAL STANDING ORDERS – NON-EXECUTIVE BODIES

14. Appointment of Substitute Members of Committees, Sub-Committee, Panels, (inc. Overview and Scrutiny Standing Panels), Boards and Working Groups

(1) If it appears that a member of the Authority is likely by virtue of serious illness or other incapacity, to be temporarily unable to attend those Committees of which he or she is a member for a period of eight weeks or more it shall be open for the political group concerned to seek the appointment by the Council of a substitute member for such period as is considered necessary.

(2) It shall be competent for the Chief Executive to seek authority for the appointment of substitute members in the circumstances outlined in (1) above on grounds of urgency, reporting back action to the next meeting of the Council.

(3) If the substitute member is unable to attend the Committee in question, no other substitute shall be permissible.

(4) A Leader, Deputy Leader or other appointed member of a political group shall be authorised to nominate to the Assistant to the Chief Executive substitute members from that group in respect of any committee, sub-committee, panel, board or working group of the Council, subject to the following conditions:

- (i) notice being given to the Assistant Director Democratic Services by not later than 60 minutes before the commencement of the meeting concerned.;
- (ii) any political group member so appointed shall be notified to the Assistant Director Democratic Services at the beginning of each Council year;
- (iii) the substitution notification deadline shall be included on every agenda where substitution is permitted under the Council's Constitution.

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Report to Overview and Scrutiny Committee

Date of meeting: 4 September 2012

**Subject: Safer Cleaner Greener Standing Panel
Terms of Reference**

Officer contact for further information: John Gilbert

Committee Secretary: Adrian Hendry

SCRUTINY



Epping Forest District Council

Recommendations/Decisions Required:

To note and agree the amendments to the Safer Cleaner Greener Scrutiny Standing Panel's Terms of Reference.

Report:

1. Part of the Safer Cleaner Greener Standing Panel's Terms of Reference was to monitor and review the Nottingham Declaration 'action plan' and the Council's progress towards its goals.
2. The Nottingham Declaration has been replaced by the 'Climate Local Agreement'. The agreement differs from the original Nottingham Declaration by giving local authorities the opportunity to create their own more specific goals with regard to reducing and off-setting carbon emissions. This would provide a helpful structure to guide the aims and objectives for the new carbon strategy.
3. The Panel would also want to monitor the new Parking Partnership and an item should be added to the Terms of Reference to enable them to monitor the minutes of the North Essex Parking Partnership (NEPP) when available.
4. The Committee are asked to agree the amended Terms of Reference, as outlined above and attached, with changes marked in bold.

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TERMS OF REFERENCE - STANDING PANEL

Title: Safer, Cleaner, Greener

Status: Standing Panel

Terms of Reference:

1. To approve and keep under review the "Safer, Cleaner, Greener" initiative development programme.

(Note: this development programme will encompass the three main issues and will therefore include matters such as:

- (i) environmental enforcement activity*
- (ii) safer communities activities*
- (iii) waste management activities (in addition to WMPB information))*

2. To keep under review the activity and decisions of the Waste Partnership Member Board and the Inter Authority Member Working Group.
3. To receive reports from the Waste Management Partnership Board in respect of the operation of and performance of the waste management contract
4. **To monitor and keep under review the 'Climate Local Agreement' and the Council's progress towards the preparation and adoption of a sustainability policy and to receive progress reports on the Council's Climate Change Strategy from the Green Working Group**
5. (Subject to Cabinet approval of the Group) to receive and review the reports of the Bobbingworth Nature Reserve (former Landfill site) Liaison Group.
6. To act as the Council's Crime and Disorder Scrutiny Committee and to keep under review the activities of the Epping Forest Safer Communities Partnership as a whole or any of the individual partners which make up the partnership and:
 - That at least two meeting a year be dedicated as Community Safety Committee meetings.
7. To monitor and review the new Local Highways Panel.
8. **To receive the minutes of the North Essex Parking Partnership (NEPP) for the purposes of monitoring the work and progress of the partnership.**

Chairman: Cllr. Lea

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