

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Constitution and Members Services **Date:** Monday, 16 July 2012
Scrutiny Standing Panel

Place: Committee Room 1 **Time:** 7.00 - 9.18 pm

Members Present: Mrs M Sartin (Chairman), A Watts (Vice-Chairman), J Markham,
Mrs M McEwen, R Morgan, B Rolfe, D Stallan and G Waller

**Other
Councillors:**

Apologies: R Cohen, J Philip and Mrs J H Whitehouse

Officers Present: I Willett (Assistant to the Chief Executive), G Lunnun (Assistant Director
(Democratic Services)), S G Hill (Senior Democratic Services Officer),
W MacLeod (Elections Officer) and M Jenkins (Democratic Services
Assistant)

Also in attendance: R Thompson (Co-Opted Member of Audit and Governance Committee)

1. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

There were no substitutions made.

2. DECLARATION OF INTERESTS

Pursuant to the Council's Code of Member Conduct, Councillor A Watts declared a non-pecuniary interest in the following item of the agenda by virtue of being the Chairman of the Audit and Governance Committee. The Councillor advised that his interest was not prejudicial and would stay in the meeting for the duration of the discussion and voting thereon:

- Item 7 Audit and Governance Committee – Article 11 of the Constitution

3. NOTES OF THE LAST MEETING

RESOLVED:

That the notes of the last meeting of the Panel, held on 20 February 2012, be agreed.

4. 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 7 (Review of Petitions)

A report was scheduled for 25 September 2012, however this would be submitted to the Panel in January 2013.

The Vice Chairman suggested that the Panel discuss moving all District Council meetings Mondays to Wednesdays, and allowing the Parish and Town Councils to meet Thursdays and Fridays. It was advised that if agreed, this process could only begin from May 2014. Members agreed to discuss this issue in December 2012.

5. LOCAL ELECTIONS - 3 MAY 2012

The Panel received a report from the Assistant Director (Democratic Services), regarding the Local Elections, 3 May 2012.

There were 22 District Council Wards and 9 Parish/Town Council Wards contested on 3 May. In each of the District wards contested except for Epping Lindsey and Thornwood Common, one Councillor was due to be elected. In Epping Lindsey and Thornwood Common, two Councillors were due to be elected, one to fill the scheduled vacancy, and another to fill a casual vacancy resulting from a resignation. An election was not scheduled for the Hastingwood, Matching and Sheering Village Ward, but was necessary following a boundary change. Turn out in the district wards varied between 39.06% in the Theydon Bois ward and 18.64% in the Waltham Abbey South West Ward.

In the Parish and Town Council Wards, the number of candidates per ward varied from 14 in Buckhurst Hill East to 4 in Loughton St. John's. The turnout ranged from 38.43% in Loughton Forest to 24.14% in Loughton Fairmead.

A project plan and a risk register for the elections was prepared in December 2011 and updated regularly. Returns were submitted to the Electoral Commission at intervals, regarding compliance with their guidance and actions in the Project Plan.

Polling Stations

There were 57 established polling stations were provided in 48 different buildings on 3 May 2012. In Stapleford Tawney it was necessary to use St. Mary's Church, as the normal venue was unavailable. Fifty Presiding Officers and around 110 Poll Clerks were appointed, with sufficient standby staff, some of whom were called upon at short notice.

On election day representations were made about the condition of the entry path to the Allnutts Institute Polling Station. The surface to the entry path had deteriorated at the point where it joined the public footway making it difficult to negotiate by some electors. Tellers suggested that a better location would be the Scout Hall in Hut's Lane. However, there were concerns about using that venue from a road safety point of view, although it had a car park. An alternative was the renovation/repair of the entry path, discussions were taking place with the Institute.

Representations were made about restricted access to Murray Hall in Borders Lane, Loughton. One of the main entrance doors was open, and the other which accommodated wheelchairs, could have been opened by pressing the entrance button. Discussions were taking place with Loughton Town Council regarding the possible re-positioning of the sign drawing attention to the entrance button.

The Presiding Officer on duty at St. Edmunds Church Hall, Matching Green raised the viability of the venue as a polling station as it accommodated two polling districts, but the total number of electors voting was 12 in one, and 15 in the other. All the

electors arrived by car. Because of boundary changes, many electors who had previously at the Church Hall now voted at the Matching Village Hall. Following consultation with the parish clerk, the local district and county members, it had been decided to use Matching Village Hall, Matching Tye for future elections.

Postal Votes

The total number of postal vote packets issued was 6,462. Only two packs failed to reach the electors in the post and were re-issued, 71.23% were returned which equated well with previous elections. No arrangements were made a final sweep of Royal Mail Sorting Offices. There were 30 postal votes handed in at polling stations. On the days following polling day, a total of 10 postal vote packages were received.

The issue and opening sessions for postal votes went smoothly. There was no evidence of postal vote fraud, although 145 postal votes were rejected for various reasons.

Ballot Papers

The proofs of all ballot papers were scrutinised, all of which were printed in the correct format. Additionally a manual check was made of each printed ballot paper prior to election day. All of the papers were printed by the Council's Reprographics Section, the only error found prior to 3 May, was the lack of the official mark on 11 papers. These were re-printed with the mark. There were no reports from Polling Stations of printing errors, which suggested that the checks were accurate.

Spoilt Papers

The number of ballot papers rejected in respect of the District Council Elections varied between 15 in both the Grange Hill and Loughton Fairmead Wards, and none in the Theydon Bois Ward. The majority of papers were rejected for being unmarked or wholly void for uncertainty. The number of ballot papers rejected in the Town/Parish Council elections varied between 25 in the Buckhurst Hill East Ward and 3 in the Loughton Alderton Ward. The majority of papers rejected were for being unmarked or wholly void for uncertainty.

Verification and Counts

Verification and counting of ballot papers took place at Theydon Bois Village Hall on 4 May. Verification sheets were not posted for viewing by election agents. One agent complained about this omission and was subsequently shown the sheets. This omission would be corrected at future elections.

A section of the car park at Theydon Bois Village Hall was coned off on 4 May for use by a nursery being held in a room at the rear of the village hall. Officers were advised that the nursery had complained that some of the reserved spaces had been used by persons attending the count. It appeared that the cones were moved and then replaced after cars were parked in the reserved area. All those attending counts at the hall in future would be reminded of the need not to park in the area coned off.

Police Liaison

Discussions were held with the police prior to the election, and the police prepared a Policing Plan. The police support was good, with all polling stations receiving visits, there were no instances requiring immediate police presence. There was police support provided at the Count Centre, and a police escort for the delivery of ballot

boxes from the Civic Offices to the Count Centre on 4 May. The police said the elections gave little cause for concern. Police visits during polling day were well received by Polling Station staff.

Complaints and Queries Received in the Elections Office

There were few telephone calls made to the Elections Office on 3 May by electors, most of these were from electors in wards where no election was being held. Some calls were made by Presiding Officers seeking clarification on procedures. One Presiding Officer was held up in traffic and did not arrive at his polling station until after 7.00a.m. His station was a double one, and the other Presiding Officer covered with the assistance of a standby. No electors had attended by the time the Presiding Officer arrived.

Feedback from Election Agents and Candidates

Election Agents had been invited to express views on the running of the Elections and the Counts. Two agents drew attention to a lack of candidate lists inside polling stations. It had been common practice in previous years to display the Notice of Poll in polling stations but this was not specified in the legislation. The law assumed that electors knew who they were voting for before attending the polling station.

A comment was made that agents had not been made aware of the order of proceedings at the count. In April 2012, an information sheet was sent to all agents advising that verification would commence at 10.00a.m. on 4 May, and would be followed by the District and Parish/Town Council election counts. On the day, verification was completed by 11.30a.m., at which time staff were given a 30 minute break.

One agent advised that he had not received a poll card and that he had heard reports of electors in several roads in the Loughton St. John's Ward did not receive poll cards. This comment was echoed by another agent who had received representations from electors whilst canvassing and telling. Checks were made with the canvasser who had delivered poll cards in the area and they confirmed that poll cards were delivered in the area over the Easter weekend and they experienced no difficulties at any property.

Another agent pointed out that electors in a new residential home had been wrongly allocated to the Loughton St. John's Ward, as the home was in the Loughton St. Mary's Ward. This was an error which had been corrected for the future.

An agent complained that a candidate had been disadvantaged because of a lack of a description against his name on the ballot paper. This appeared to have resulted from the candidate choosing the description "Independent" which appeared on all the relevant notices and ballot papers. Under the law two types of description for a candidate were allowed, a registered political party, or an independent. If neither option was used on the nomination form the section for a description was left blank. In regard to Parish/Town Council elections, the law differed, a description of up to six words was allowed.

One agent pointed out that it was not possible to accommodate tellers under cover at polling stations and there were several instances of over-manning of teller positions. In future, the restriction on the number of tellers would be emphasised, although no complaints were made to Presiding Officers on the day of the election.

Members asked if refreshments could be provided to everybody at the Election Count. It was felt that the 2 halls used for the count would become congested with people if refreshments were served. The Panel asked officers to examine the viability of doing this, particularly as Broxbourne Council provided refreshments, at their counts.

Members thanked staff for their hard work during the election period.

RESOLVED:

- (1) That the Review of the Local Elections, held on 3 May 2012, be noted; and
- (2) That officers investigate the viability of providing refreshments at future election counts.

6. AUDIT AND GOVERNANCE COMMITTEE - ARTICLE 11 OF THE CONSTITUTION

The Panel received a report from the Assistant to the Chief Executive regarding Audit and Governance Committee (AGC) – Article 11 of the Constitution.

When this Panel considered Article 11 of the Constitution (Audit and Governance Committee) on 8 November 2011, the discussion was based on a review of its membership rules. As a result, the District Council adopted proposals allowing Portfolio Holder Assistants to serve on the committee for a year, subject to review. It was reported that the AGC wished to carry out a further review of Article 11 in a number of respects.

RECOMMENDED:

- (1) That the following alterations to Article 11 of the Constitution, the Terms of Reference of the Audit and Governance Committee be approved:
 - (a) removal of the requirement for the 3 seats for Councillors 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 that they are not drawn from one political group, and are open to independent Councillors (ie those not affiliated to any political group);
 - (ii) that the 3 Councillors should be appointed on the basis of expertise, experience and interest as recommended by the Council's Appointment 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 Appointments Panel;
 - (iv) that the Chairman of the Audit and Governance Committee and the co-opted members of that Committee be consulted informally about appointment and re-appointment of Councillor members of the Committee;

- (c) appointment of the Chairman and Vice Chairman of the Committee 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;
 - (e) co-opted members to be subject to the same informal attendance and performance standards as apply to Councillor members of the Committee during their terms of office;
 - (f) co-opted members to serve for overlapping terms of three years subject to the following conditions:
 - (i) a maximum of two consecutive 3 year terms as of right but subject to attendance and performance review as set in (e) above; and
 - (ii) ability to serve for further 3 year terms, 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 present co-opted members to be delegated to the Committee;
- (2) That the revision to Article 11 of the Constitution relating to the terms of reference of the Audit and Governance Committee be recommended to the Overview and Scrutiny Committee and the Council for adoption and publication in the Constitution.
- (3) That the attention of the Council be drawn to the legal requirement that the adoption of recommendation (1)(a) above must be approved with no member voting against.

7. MEMBER COMPLAINTS PANEL - LIMITS OF JURISDICTION

The Panel received a report from the Assistant to the Chief Executive, regarding the Member Complaints Panel – Limits of Jurisdiction.

The Member Complaints Panel (CP) was responsible for considering complaints at Step 4 in the Council's complaints procedure. Some complaints fell outside the Panel's jurisdiction, and could not be considered at Step 4. These exclusions were:

- (a) a complaint about a situation which arose more than 12 months before it was brought to the attention of the Council;
- (b) where an alternative and formal right of appeal existed, and for which the complainant failed to exercise his/her right to appeal within the specified timescale, or had not yet appealed, or had already made such an appeal;
- (c) matters dealt best by the courts;
- (d) matters which would affect the majority of the people in the District;
- (e) complaints for which a resolution could only be achieved through a change in law, or a change on other polices;

- (f) complaints about policies currently subject to a review, or about matters for which it had already been agreed that a policy needed reviewing or formulating;
- (g) complaints about the frequency of delivery, or the level of a service which was subject to contract conditions;
- (h) where the customer elected to pursue legal action as a means of determining their complaint;
- (i) if the complainant, at Steps 1, 2 or 3, had already been offered the maximum remedy that the Complaints Panel was empowered to offer;
- (j) when there was no evidence that the complainant had suffered any harm or injustice even if there had been administrative fault by the Council;
- (k) if the complainant had already accepted the proposed remedy and had formally confirmed that they had done so in full and final settlement of all of their 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 12 month time limit; and
- (m) if the complaint had already been determined by the Local Government Ombudsman.

In the light of some complaints that were considered during 2011-12, it was recommended that the following further exclusions be applied:

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

Reason: The decisions of independent bodies took precedence over decisions of the Council so could not be overturned by officer or members.

(ii) Where the complainant disagreed with a decision made by the Council but had neither suggested nor provided any evidence that there was any administrative fault in the way that decision was made.

Reason: Both the Council's complaints procedure and that of the Local Government Ombudsman could only determine if there was any administrative fault in the way a decision was made.

(iii) Where the only remedy requested by the complainant was financial by nature and the amount requested was less than £150.00.

Reason: The minimum cost of a Step 4 review meeting was around £200.00. This cost could significantly increase if the meeting extended past 7.30p.m., as officers would be entitled to an attendance allowance. It was not cost effective to convene a Step 4 review if the remedy requested was for less than £200.00.

RECOMMENDED:

That the revisions to the limits of jurisdiction of the Complaints Panel be recommended to the Overview and Scrutiny Committee.

8. SUBSTITUTIONS AT MEETINGS

The Panel received a report from the Assistant to the Chief Executive regarding Substitutions at Meetings.

The District Council's Constitution allowed for the nomination of substitutes for Committees, Sub-Committees, Panels, Boards and Groups (Operational Standing Orders – Non Executive Bodies (14)).

Following a request from the Overview and Scrutiny Committee on 11 April 2011, this Panel on 2 June discussed the process of making substitutions for the Overview and Scrutiny Committees and the District Development Control Committee. The Panel recommended that the procedure was amended to allow for substitutions to be made up until 30 minutes before the commencement of the meeting concerned. However, at the Overview and Scrutiny Committee on 12 July, members amended the report for substitutions to be made until 60 minutes before the meeting which was subsequently adopted by the Council on 26 July 2011. This Panel recommended that a review of this process take place in a year's time.

Officers advised that the generic email "Democratic Services," for Group representatives to notify officers at Research and Democratic Services of substitutions was not always being used. Otherwise, from officer's perspective, the process appeared to have worked efficiently.

Members recommended 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) had been re-worded setting out the duties of the Chief Executive and the circumstances under which he could act.

RECOMMENDED:

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."

9. FUTURE MEETINGS

The next programmed meeting of the Panel would be on Tuesday 25 September 2012 at 7.00p.m. and then on the following dates:

Tuesday 4 December at 7.00p.m.;

Monday 7 February at 7.00p.m. Extra-Ordinary Meeting;

Tuesday 26 March 2013 at 7.00p.m.

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

The following reports were being submitted to the next Overview and Scrutiny Committee:

- (a) Local Election – 3 May 2012;
- (b) Audit and Governance Committee – Article 11 of the Constitution; and
- (c) Member Complaints Panel – Limits of Jurisdiction

CHAIRMAN