

Scrutiny Standing Panel Agenda



Constitution and Members Services Scrutiny Standing Panel Monday, 16th July, 2012

Place: Committee Room 1

Time: 7.00 pm

Democratic Services Officer: M Jenkins - The Office of the Chief Executive
Tel: 01992 564607
Email: democraticservices@eppingforestdc.gov.uk

Members:

Councillors Mrs M Sartin (Chairman), A Watts (Vice-Chairman), R Cohen, J Markham, Mrs M McEwen, R Morgan, J Philip, B Rolfe, D Stallan, Mrs J H Whitehouse and G Waller

SUBSTITUTE NOMINATION DEADLINE:

18:00

1. APOLOGIES FOR ABSENCE

2. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

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

3. DECLARATION OF INTERESTS

(Assistant to the Chief Executive). To declare interests in any items on the agenda.

In considering whether to declare a personal or a prejudicial interest under the Code of Conduct, Overview & Scrutiny members are asked pay particular attention to paragraph 11 of the Code in addition to the more familiar requirements.

This requires the declaration of a personal and prejudicial interest in any matter before an OS Committee which relates to a decision of or action by another Committee or Sub Committee of the Council, a Joint Committee or Joint Sub Committee in which the Council is involved and of which the Councillor is also a member.

Paragraph 11 does not refer to Cabinet decisions or attendance at an OS meeting purely for the purpose of answering questions or providing information on such a

matter.

4. NOTES OF THE LAST MEETING (Pages 5 - 16)

To consider the notes of the last meeting of the Panel held on 20 February 2012 (attached).

5. TERMS OF REFERENCE / WORK PROGRAMME (Pages 17 - 20)

(Chairman/Lead Officer) The Overview and Scrutiny Committee has agreed the Terms of Reference of this Panel and associated Work Programme. This is attached. The Panel are asked at each meeting to review both documents.

The OSC is about to formulate next years OS work plan incorporating a programme for this Panel. In view of this, the Panel may wish to bring forward suggestions/ideas on topics for inclusion in its work programme for next year.

6. LOCAL ELECTIONS - 3 MAY 2012 (Pages 21 - 28)

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

7. AUDIT AND GOVERNANCE COMMITTEE - ARTICLE 11 OF THE CONSTITUTION (Pages 29 - 42)

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

8. MEMBER COMPLAINTS PANEL - LIMITS OF JURISDICTION (Pages 43 - 46)

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

9. SUBSTITUTIONS AT MEETINGS (Pages 47 - 50)

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

10. FUTURE MEETINGS

The next programmed meeting of the Panel will be held on Tuesday 25 September 2012 at 7.00pm in Committee Room 1 and then on:

Tuesday 25 September;
Tuesday 4 December; and
Tuesday 26 March 2013

Due to the workload of this Panel it will be necessary to arrange an extra-ordinary meeting for January 2013. The date will be confirmed at this meeting.

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

To consider which reports are ready to be submitted to the Overview and Scrutiny Committee at its next meeting.

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION AND MEMBERS SERVICES SCRUTINY
STANDING PANEL
HELD ON MONDAY, 20 FEBRUARY 2012
IN COMMITTEE ROOM 1
AT 7.00 - 10.01 PM**

Members Present:	D Stallan (Chairman), R Cohen, J Markham, Mrs M McEwen (Housing Portfolio Holder), J Philip (Deputy Leader and Planning and Technology Portfolio Holder), B Rolfe (Vice Chairman of the Council), Mrs M Sartin and Mrs J H Whitehouse
Other members present:	Mrs C Pond and C Whitbread
Apologies for Absence:	D C Johnson (Deputy Portfolio Holder (Estates)) and R Morgan
Officers Present	I Willett (Assistant to the Chief Executive), B Bassington (Chief Internal Auditor), G Lunnun (Assistant Director (Democratic Services)), S G Hill (Senior Democratic Services Officer) and M Jenkins (Democratic Services Assistant)

38. NOTES OF THE LAST MEETING

RESOLVED:

That the notes of the last meeting of the Panel held on 8 November 2011 be agreed.

39. VICE CHAIRMAN

The Chairman requested that Councillor B Rolfe act as Vice Chairman for the duration of the meeting. The Panel gave their consent to this.

RESOLVED:

That Councillor B Rolfe act as Vice Chairman for the duration of the meeting.

40. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

There were no substitute members present.

41. DECLARATION OF INTERESTS

(a) Pursuant to the Member's Code of Conduct, Councillor B Rolfe declared a personal interest in the following item of the agenda by virtue of being a member of the Housing Appeals and Review Panel. 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 Housing Appeals and Review Panel – Terms of Reference

(b) Pursuant to the Member's Code of Conduct, Councillor Mrs M McEwen declared a personal interest in the following item of the agenda by virtue of being the Housing Portfolio Holder. The Councillor advised that her interest was not prejudicial and would stay in the meeting for the duration of the discussion and voting thereon:

- Item 7 Housing Appeals and Review Panel – Terms of Reference

42. 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 16 Review of Petitions – Change in Legal Requirements

This item would be discussed next year.

43. PROGRAMME OF WORK 2012/13

The following was a proposed programme of work for the Panel in 2012/13:

- (a) Complaints Panel – Jurisdiction;
- (b) Contract Standing Orders – two review items;
- (c) Review of May elections;
- (d) Review of November elections;
- (e) Review of Officer Delegation;
- (f) Electronic Delivery of Agenda;
- (g) Employment Procedure Rules – Revision;
- (h) Review of Substitutions at Meetings – report due in June 2012;
- (i) Review of Petitions – Change in legal requirements;
- (j) Audit and Governance Committee – Terms of Reference; and
- (k) Standards Committee.

44. HOUSING APPEALS AND REVIEW PANEL - TERMS OF REFERENCE

The Panel received a report from the Assistant Director of Democratic Services regarding Housing Appeals and Review Panel – Terms of Reference.

(a) Order of Presentation of Cases to the Panel

The current order of business for consideration of cases by the Housing Appeals and Review Panel provided for the applicant/appellant to present their case and answer questions first followed by the Housing Officer presenting their case and answering questions. Whilst this followed the order of most appeal proceedings it was

considered that it was not relevant to this Panel. It was felt that applicants/appellants were put at a disadvantage when presenting their cases through being overwhelmed at facing a panel of members in a formal setting.

A change in the order of proceedings, with the Housing Officer presenting his/her case first, would have the following benefits:

(i) the Housing Appeals and Review Panel would have the benefit of receiving the full facts of the case at the outset as these were set out in the officer's report, this would enable members to understand better the submissions made subsequently by the applicant/appellant;

(ii) the applicant/appellant would have time to settle in the meeting before being expected to address, would have a better appreciation of the proceedings having witnessed the way in which the officer presents his/her case and answers questions on it.

The Housing Appeals and Review Panel had considered the proposed changes at its meeting on 8 September 2011, and the majority view expressed was in support of the proposed change and this was referred to this Panel for consideration.

(b) Appeals against the Banding of an Applicant

Following concern about the cost and member and officer time involved with housing appeals about relatively minor issues, the Council in April 2010 agreed that from the commencement of the municipal year 2010/11 the terms of the Housing Appeals and Review Panel should be amended to allow appeals and reviews only in respect of specified issues. Since May 2010, the Panel had considered nine appeals about the banding of an applicant including five appeals since August 2011. In all cases the Panel had upheld the officer's decision and dismissed the appeal.

In the light of this the Panel at its meeting on 26 October 2011 recommended to this Panel that such appeals should no longer come within the terms of reference of the Housing Appeals and Review Panel and that the right of appeal should end with one of the Assistant Directors of Housing.

RECOMMENDED:

That the following be recommended to the Overview and Scrutiny Committee:

(a) that the existing order of proceedings of the Housing Appeals and Review Panel be retained but that provision be made for the Chairman of the Panel to reverse the order if requested by the appellant/applicant or their representative;

(b) that appeals against the banding of an applicant be removed from the Terms of Reference for the Housing Appeals and Review Panel; and

(c) that the arrangements in (a) above be reviewed in 6 months time.

45. REVIEW OF OFFICER DELEGATION

The Panel received a report from the Assistant to the Chief Executive regarding Officer Delegation – 2011/12 Review.

The only new change in delegation related to the detailed wording on tree preservation. The remainder were executive delegations and had already been approved by the Cabinet and/or Portfolio Holders and would be incorporated in the Constitution once the Leader of Council had reviewed and approved the overall schedule.

RECOMMENDED:

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

46. REVIEW OF FINANCIAL REGULATIONS

The Panel received a report from the Assistant to the Chief Executive regarding the Review of Financial Regulations. The report recommended one change to Financial Regulations and one consequential amendment to the Budget Procedure Rules in the Constitution, relating to virement limits.

Officers believed that there should be no change to the procedure for virements up to £5,000, save that the term “cost centre” should be amended. It was recommended that the use of this term should be discontinued and the term “budget heading under the same budget page” should be substituted. This allowed officers a greater degree of flexibility in managing their budgets. The current restriction of virements to within cost centres only was felt overly restrictive and necessitated Portfolio Holder involvement for insignificant changes to budgets. No change was proposed to a wider authority to transfer funds between different budget pages as this would allow funds to be used for purposes, different from those approved by the Council decisions of that kind requiring Cabinet or Portfolio Holder involvement.

As to the other virement limits, no changes were proposed for £100,00 Cabinet and Council, but for virements up to £10,000 and from £10,000 - £100,000, it was recommended that the limit for Portfolio Holder approval should be increased to £25,000. This recognised the role of portfolio holders and would reduce references to the Cabinet. Use of portfolio holder decision making was more flexible which, coupled with the redefinition of “cost centres,” would make arrangements easier to operate.

RECOMMENDED:

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

47. APPOINTMENTS AT ANNUAL COUNCIL - REVIEW

The Panel received a report from the Senior Democratic Services Officer regarding Appointments at Annual Council – Review.

During 2011 the Panel discussed the process of the annual meeting and how it could be improved, this led the Council introducing an Appointments Panel and making

improvements to the process of agreeing nominations for Committee places and outside body appointments. The Council had requested that the operation of the new system should be reviewed after one year. The Appointments Panel was operated for the first time last year.

Election and Nomination of the Vice Chairman of Council

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

It was suggested that Tuesday 15 May 2012 would be the recommended date for the Appointments Panel meeting this year.

RECOMMENDED:

(1) That the operation of the Appointments Panel be reinstated with a review undertaken by the Constitution and Member Services Scrutiny Standing Panel next year;

(2) That Article 5.02 (c) of the Constitution be amended to read:

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

(3) That the date for the Appointments Panel for 2012 should be 10 May 2012, with a reserve date of 15 May 2012.

48. WEBCASTING - FURTHER REPORT

The Panel received a report from the Senior Democratic Services Officer regarding the Webcasting Review.

At the meeting of the Panel in October 2011 members requested a report on webcasting which provided further information about the contract and the Council's webcasting activities based upon requests made at that meeting.

The following points were covered:

(a) Opportunities for charging professional organisations for copies of DVDs.

Since 2007 the Council had provided, on request, a copy of any webcast meeting, with no charge levied. 10 to 15 of such requests had been received each year. It was estimated that income from charging would be half the cost of processing the payments. The Panel asked for further investigation on charging.

(b) External Filming for Other Organisations

It was noted that charges were sought for a Parish Council in connection with a request to film some of their meetings. However the Council concerned declined to pay.

Requests received were currently considered on the basis of:

- (i) Staff capacity to undertake the function/meeting;
- (ii) Charging for all officer time and webcast costs; and
- (iii) Use of Council publicity to advertise forthcoming meetings.

(c) On Screen Synchronisation of Speaker/Image

Occasionally officers had noticed incorrect captions, but these could be changed after the event. These errors made up a small percentage of whole output.

(d) Views of Members of the District Council, County Council and Town and Parish Councils

Members' views had been canvassed, but the only representations received related to viewing with a non-IE browser, and the synchronising of audio and video. The former was resolved by reference to the FAQs section of the microsite, and the latter was being addressed by the supplier. The Local Council's Liaison Committee had asked for its meetings to be webcast, and for local councillors to be given access to training webcast.

(e) Details of Contract Costs

The existing contract was made under an Essex HUB Webcasting Framework Contract let in competition. The contract price was £20,400. The contract renewal was achieved under the framework and was for a term of four years from 1 April 2011.

(f) Further Analysis of Staffing Costs

One additional officer was required at a meeting to operate the webcast unit. The exception was Area Plans South Sub-Committee requiring two officers due to the amount of equipment required to facilitate the webcast.

All officers attending evening meetings took the same payment under contractual arrangements. The payment was £58.63 for meetings ending before 10.00p.m. and £86.13 after 10.00p.m.

Officers from four departments had volunteered for webcasting duties, the annual budget was £24,560 for all attendances. The total number of webcasts in the period November 2010 to October 2011 was 83, an approximate staffing cost for those meetings would be in the region of £5,800.

(g) Arrangements under the Contract when 15 Webcasts Per Month was exceeded and the Charges which then applied.

The contract had a restriction of 15 hours of webcasting per month, which equated to 180 hours per annum. It was very difficult to estimate the time any meeting would

take. Experience suggested that officers could webcast approximately for 9 meetings per month. The provider indicated that:

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

(h) Occasions when the service was restricted by the Limit of 15 Webcasts per Month

There were no instances where officers had been restricted.

(i) Charging for Advising other Bodies on Webcasting including Visits to other Authorities/Bodies

Democratic Services provided advice about webcasting, committee management, elections and civic events to other authorities. However no capacity existed for providing project management to other authorities. It was advised that the Senior Democratic Services Officer chaired the National Webcasting User Group, and also belonged to a small group advising the provider on development and functionality.

(j) Statistics on viewing by the Public and Officers

The average percentage of officer-originated viewings was 3.35%. The greatest percentage hits were for planning meetings at 36%, and "Other Content" at 26%, which included non-meeting webcasts such as events, conferences and films.

(k) Analysis of the Number of "Hits" for Meetings

The Council used the webcasting technology and equipment for producing videos for the Council's YouTube channel, these videos had been viewed 5,423 times.

RESOLVED:

- (1) That the report regarding Webcasting be noted; and
- (2) That the capacity for charging external bodies be investigated.

49. REVIEW OF MEMBER REPRESENTATION ON OUTSIDE BODIES

At the meeting on 27 July 2011, the Panel recommended changes to the arrangements for members to report as representatives of the Council on outside organisations. These changes were adopted by the Council and comprised:

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

At the same meeting, the Panel asked for a wider review of reporting by such representatives. This report was designed to allow the panel the opportunity to scope this further review.

The current version of the Protocol needed to be updated to take account of the changes in procedure at Council meetings agreed in July 2011.

The Panel noted that there had been difficulties in obtaining reports from both members and outside organisations and the process itself was time consuming.

RESOLVED:

- (1) That a scoping report be submitted to this Panel regarding the Council's links with outside organisations;
- (2) That consultation forms part of the review; and
- (3) That a full review takes place in next year's Work Programme.

50. CIRCULATION OF AGENDA - FOLLOW UP REPORT

The Panel received a report from the Assistant to the Chief Executive regarding circulation of agenda.

This issue had been discussed at the last Panel meeting and some concern was expressed about whether distribution lists should be reviewed so as to reduce the amount of paper copies in circulation. It was advised that this should be seen in the context of legal requirements advice on which were being obtained from Counsel on:

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

The arrangement outlined in 2(b) did not currently apply to agendas for the Cabinet, Council, Standards Committee and Overview and Scrutiny Committee

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

Under the present policy, a complete distribution to Councillors for Council meetings would take place. In terms of the Cabinet and the Overview and Scrutiny Committee a decision was made operationally to continue complete paper circulation to assist call-in procedure and heighten awareness of the Overview and Scrutiny function.

The Standards Committee was circulated to all Councillors as a paper copy. This was an operational decision designed to highlight the ethical framework and the role of the Committee. However the future of this committee was under review following recent legislation.

The reduction in print runs for these three bodies would reduce the re-charge to Democratic Services for printing. Currently this sum equated to expenditure of £49,000 for the current year, where a significant saving had already been achieved.

RECOMMENDED:

- (1) That the Assistant to the Chief Executive be asked with effect from the Council Year 2012/13:
 - (a) to send paper copies of all agenda only to members of the body concerned; and
 - (b) to amend the distribution of paper copies to non-members of Cabinet, Overview and Scrutiny Committee and Standards Committee agenda plus those Councillors who opt in to receive them.

51. EXECUTIVE AND REGULATORY DECISION MAKING

The Panel received a report from the Assistant to the Chief Executive regarding Executive and Regulatory Council Decision Making.

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

The Panel recognised that executive decisions on service provision were made on the basis of legality, probity and financial/technical considerations. It was accepted that the regulatory decisions followed separate processes and took account of the Council's property role. It was also noted that the Constitution clearly distinguished those functions which may be dealt with by the Executive and these other regulatory roles which did not fall to the Cabinet.

Review of the Constitution

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

There were three changes:

- (a) In the Terms of Reference of the District Development Control Committee and Area Plans Sub-Committees;
- (b) In the Terms of Reference and operational rules of the Licensing Committee and its Sub-Committees; and
- (c) In the Executive Procedure Rules

Items (a) and (b) were designed to make it clear that regulatory decisions made by those bodies must not normally take account of the Council's property interests in whatever form they may arise.

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

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

RECOMMENDED:

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

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

That the following paragraph be added to the terms of Reference of the District Development Control Committee, Area Plans Sub-Committees and the Licensing Committee:

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

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

That paragraph 5.1(b) (i) of the document entitled “Conduct of Business by Licensing Committee and Sub-Committees” be amended to read as follows:

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

(3) The Executive/Cabinet

That paragraph 2.2 of the Executive Procedure Rules be amended by the addition of the following paragraph:

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

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

That the following reports were being submitted to the forthcoming Overview and Scrutiny Committee on 28 March 2012:

- (a) Housing Appeals and Review Panel – Terms of Reference;
- (b) Review of Officer Delegation;
- (c) Review of Financial Regulations;
- (d) Appointments at Annual Council; and
- (e) Circulation of Agenda – Follow Up Report.

53. FUTURE MEETINGS

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

- (a) Tuesday 25 September at 7.00p.m. – Committee Room 1;
- (b) Tuesday 4 December at 7.00p.m. in Committee Room 1; and
- (c) Tuesday 26 March 2013 at 7.00p.m. in Committee Room 1.

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Agenda Item 5

TERMS OF REFERENCE - STANDING PANEL

Title: Constitution and Member Services
Status: Standing Panel
Terms of Reference: 1. To undertake reviews of constitutional, civic, electoral and governance matters and services for members on behalf of the Overview and Scrutiny Committee. 2. To report to the Overview and Scrutiny Committee, the Council and the Cabinet with recommendations on matters allocated to the Panel as appropriate.
Chairman: Councillor Mrs M Sartin

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**Constitution and Member Services Standing Panel 2012/13
(Chairman – Councillor Mrs M Sartin)**

Item	Report Deadline/Priority	Progress / Comments	Programme of Future Meetings
(1) Review of May Elections	16 July 2012		16 July 2012; 25 September; 4 December; and 26 March 2013 Extra-Ordinary Meeting needed for January 2013
(2) Complaints Panel - Jurisdiction	16 July 2012		
(3) Review of Substitution at Meetings	16 July 2012		
(4) Audit and Governance Committee – Review of Constitution	16 July 2012		
(5) Employment Procedure Rules - Revision	25 September 2012		
(6) Electronic Delivery of Agenda	25 September 2012		
(7) Review of Petitions	25 September 2012		
(8) Review of the Protocol on Officer/Member Relations	25 September 2012		
(9) Housing Appeals and Review Board – Review of Order of Presentation	25 September 2012		
(10) Review of Annual Council	4 December 2012		

(11) Review of Portfolio Holder Assistants as Members of Audit and Governance Committee	4 December 2012		
(12) Review of November 2012 Elections	January 2013 - TBC		
(13) Contract Standing Orders – Two Review Items	26 March 2013		
(14) Review of Officer Delegation	26 March 2013		
(15) Review of Financial Regulations	26 March 2013		

Report to the Constitution and Members Services Standing Scrutiny Panel



Date of meeting: 16 July 2012

Portfolio Holder: Leader (Returning Officer's Report)



Subject: Local Elections – 3 May 2012

Officer Contact for further Information: Ian Willett (01992 564243)
Graham Lunnun (01992 564244)
Simon Hill (01992 564249)
Wendy MacLeod (01992 564023)

Democratic Services Officer: Mark Jenkins (01992 564607)

Recommendation:

To consider this review of the Local Elections held on 3 May 2012.

District and Parish/Town Council Elections

1. The following District Council Wards were contested on 3 May 2012:

Buckhurst Hill East
Buckhurst Hill West
Chigwell Row
Chigwell Village
Epping Hemnall
Epping Lindsey and Thornwood Common (2 seats)
Grange Hill
Hastingwood, Matching and Sheering Village (following boundary changes)
High Ongar, Willingale and The Rodings
Loughton Alderton
Loughton Broadway
Loughton Fairmead
Loughton Forest
Loughton Roding
Loughton St John's
Loughton St Mary's
Moreton and Fyfield
Passingford
Theydon Bois
Waltham Abbey Honey Lane
Waltham Abbey North East
Waltham Abbey South West

2. There were nine Parish/Town Council Ward contested elections:

Buckhurst Hill East (Buckhurst Hill Parish Council)
Buckhurst Hill West (Buckhurst Hill Parish Council)
Loughton Alderton (Loughton Town Council)
Loughton Broadway (Loughton Town Council)
Loughton Fairmead (Loughton Town Council)
Loughton Forest (Loughton Town Council)
Loughton Roding (Loughton Town Council)

Loughton St Mary's (Loughton Town Council)
Loughton St John's (Loughton Town Council)

Results

3. 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. Turnout in the District Wards varied between 39.06% in the Theydon Bois Ward and 18.64% in the Waltham Abbey South West Ward.
4. In the Buckhurst Hill East Parish Ward, electors were able to vote for up to 5 candidates from a list of 14. The turn out was 32.43%. In the Buckhurst Hill West Parish Ward electors were able to vote for up to 6 candidates from a list of 9. The turn out was 30.76%. In relation to the Loughton Alderton Town Ward electors were able to vote for up to 3 candidates from a list of 5. The turnout was 26.26%. In the Loughton Broadway Town Ward electors were able to vote for up to 3 candidates from a list of 6. The turnout was 25.18%. In the Loughton Fairmead Town Ward electors were able to vote for up to 3 candidates from a list of 5. The turnout was 24.14%. In relation to the Loughton Forest Town Ward electors were able to vote for up to 3 candidates from a list of 7. The turnout was 38.43%. In the Loughton Roding Town Ward electors were able to vote for up to 4 candidates from a list of 5. The turnout was 33%. In relation to the Loughton ST Mary's Town Ward electors were able to vote for up to 3 candidates from a list of 6. The turnout was 33.16%. In the Loughton St John's Town Ward electors were able to vote for up to 3 candidates from a list of 4. The turnout was 32.39%.

Arrangements

5. A Project Plan and a Risk Register for the elections were prepared in December 2011 and updated on a regular basis. Returns were submitted to the Electoral Commission at regular intervals regarding compliance with their guidance and actions in the Project Plan.

Polling Stations

6. 57 established Polling Stations were provided in 48 different buildings on 3 May 2012. In addition in Stapleford Tawney it was necessary to use St Mary's Church as the normal venue was unavailable. This required the appointment of 50 Presiding Officers and around 110 Poll Clerks. Sufficient staff were appointed including standby staff some of whom had to be called upon at short notice.
7. On election day representations were made about the condition of the entry path to the Allnutts Institute Polling Station. The entry path had dropped at the point where it joins the public footway making it difficult to negotiate by electors unsure on their feet and particularly the elderly. Consideration has been given as to how this problem can be overcome for the future. Tellers at the polling station suggested that a better location would be the Scout Hall in Flux's Lane. However, officers have concerns about using that building from a road safety point of view. The building is accessed from the junction of Bower Hill/Flux's Lane/ Brook Road which is not ideal for the large number of vehicle movements which would be generated by a polling station. However, the location has the benefit of a car park and its use would overcome the chronic parking problems in Allnutts Road. An alternative would be the renovation/repair of the entry path. Discussions are taking place with those

responsible for the Institute.

8. Some representations were made about restricted access to Murray Hall in Borders Lane, Loughton. It is understood that one of the main entrance doors was open and the other which needs to be opened to accommodate wheelchairs could have been opened by pressing the entrance button. Discussions are taking place with Loughton Town Council regarding the possible re-positioning of the sign drawing attention to the entrance button.
9. The Presiding Officer on duty at St Edmunds Church Hall, Matching Green raised the viability of the venue as a polling station in that it accommodated two polling districts but the total number of electors voting was 12 in one polling district and 15 in the other, ie 27 during 15 hours. The Presiding Officer also stated that all the electors arrived by car. The number of electors due to vote at St Edmunds Church Hall is now considerably less than before because the electors affected by the boundary change now vote at the Matching Village Hall. In the light of these comments the parish Clerk/Council and the local District and county members were consulted about the possibility of the polling districts concerned voting at Matching Village Hall, Matching Tye at future elections. The responses received support this suggestion which will be implemented for the Police and Crime Commissioner election in November 2012.

Postal Votes

10. The total number of postal vote packets issued was 6462. Only two packs failed to reach the electors in the post and had to be re-issued. This was a big improvement on previous years. 71.23% were returned which equates well with previous elections. Arrangements were not made for a final sweep of Royal Mail Sorting Offices on polling day in order to locate and obtain postal votes still in the postal system. 30 postal votes were handed in at polling stations. In the Council's post on the days immediately following polling day a total of 10 postal vote packages were received, some of those may have been in the Royal Mail system on polling day. A few were returned as undelivered because electors had moved or died and the elections Office had not been notified.
11. The issue and opening sessions for postal votes went smoothly. The software and scanners used for checking personal identifiers (signature and date of birth) again worked well. There was no evidence of any postal vote fraud although 145 postal votes were rejected for various reasons – no ballot paper, no postal voting statement, mismatched signature or date of birth or both.

Ballot Papers

12. The proofs of all District Council and Parish/Town Council ballot papers were scrutinised carefully and all ballot papers were printed in the correct format. In addition a manual check was made of each printed ballot paper prior to election day to ensure that books were printed correctly and that all papers included the official mark. All of the papers were printed by the Council's Reprographics Section and the only error found prior to 3 May was the lack of the official mark on 11 papers. These papers were re-printed with the mark. As in previous years this was an excellent service bearing in mind the tight timescale for printing.
13. There were no reports from Polling Stations of printing errors on the papers which suggests that the checks made before polling day were accurate.

Spoilt Papers

14. 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.

15. 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. Again the majority of papers were rejected for being unmarked or wholly void for uncertainty. Very few were rejected for voting for more candidates than the voter was entitled to.

Verification and Counts

16. Verification and counting of ballot papers took place at Theydon Bois Village Hall on 4 May. Both processes went smoothly including the use of "grass skirts" where appropriate and were completed by mid-afternoon.
17. Verification sheets were not posted so that agents and others could look at them. One agent complained about this omission and he was shown the sheets. This omission will be corrected at future elections.
18. A section of the car park at the Theydon Bois Village Hall was coned off on 4 May for use by the Montessori nursery being held in a room at the rear of the Village Hall. During a subsequent discussion with the Bookings Clerk for the Hall, officers were advised that the nursery had complained that some of the reserved spaces had been used by persons attending the count. It appears that the cones were moved and then replaced after cars were parked in the reserved area. All those attending counts at the Hall in the future will be reminded of the need not to park in the area coned off.

Police Liaison

19. Discussions were held with the Police prior the election and the Police prepared a Policing Plan. The Police support was good this year with all Polling Stations receiving visits. There were no instances requiring immediate Police presence outside of the regular visits. There was also Police support provided at the Count Centre. Police Officers escorted the delivery of ballot boxes from the Civic Offices to the Count Centre on 4 May. From a Policing prospective 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

20. There were few telephone calls made to the Elections Office on 3 May by electors. The majority were from electors in wards in which there was no election being held. Some calls were made by Presiding Officers seeking clarification of procedures. One Presiding Officer was held up in traffic on the A12 and did not arrive at his polling station until after 7.00am. Fortunately his station was a double one and the other Presiding Officer in the building was able to cover with the assistance of a standby Presiding Officer who was sent from the Civic Offices. In fact no electors had attended by the time the Presiding officer arrived.

Feedback from Election Agents and Candidates

21. Election Agents were invited to express views on the running of the Elections and the Counts.
22. Two agents drew attention to a lack of candidate lists inside polling stations. Members may recall that one of the directions issued by the Electoral Commission in 2011 was that the Notice of Poll which includes candidates' details was not to be displayed in polling stations. They specified that the only notices to be displayed were an A3 one in the polling booths advising how many crosses to put on each ballot paper and an A2 notice telling electors how to vote. Whilst it has been common practice in previous years to display the Notice of Poll in polling stations it is not a notice specified in the legislation for display inside polling stations. The law assumes that electors know who they are voting for before attending the polling station and that with logos on the ballot papers there is no need for additional information on a notice.
23. 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 10.00am on 4 May and once completed would be followed by the District Election counts and then the Parish/Town Council election counts. At that time it was not possible to be more specific. On the day notes handed out on arrival gave similar information. Verification was completed by 11.30am at which time staff were given a 30 minute break as there would not have been a convenient opportunity for a break later on.
24. One agent advised that he did not receive a poll card and that he had heard reports that electors in several roads close to his address in the Loughton St John's Ward did not receive poll cards. This comment was also made by another agent who received representations from electors whilst canvassing and telling. A check was made with the canvasser who delivered poll cards in the area and he confirmed that poll cards were delivered to all the addresses over the Easter weekend and he experienced no difficulties at any property. It is not felt that this matter can be pursued further.
25. Another agent pointed out that electors in a new residential home at Loughton Hall had been wrongly allocated to the Loughton St John's Ward as the home is in the Loughton St Mary's Ward. This was an error which has been corrected for the future.
26. 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 result from a misunderstanding as the candidate had chosen the description "Independent" which had appeared on all the relevant notices and ballot papers. There are two types of description allowed by law for a District Council election, namely, that of a registered political party or the word "Independent". If neither option is used on the nomination form the section for a description has to be left blank. The law for Parish/Town Council elections is different- candidates in those elections have the extra option of a description of up to six words. The agent suggested that the difference is illogical but that is the law. It is understood that the agent will consider registering his group as a political party.
27. One agent pointed out that it was not possible to accommodate tellers under cover at all polling stations. He also advised that there were several instances of "over-manning" of teller positions with party supporters at several polling stations. In some polling stations it is possible to accommodate tellers inside the building, eg in a lobby to the main room where voting takes place. However, some stations only comprise the main room and at such locations tellers have to stand outside. The point about the restriction on the number of tellers will be emphasised to agents in future although no complaints were made to Presiding Officers on the day of the elections.

28. An agent stated that some of those present at the count were concerned at the discourtesy shown to the Returning Officer by the level of "chatter" from the floor when he was announcing results. All of those present at the count are asked to restrict the level of background noise and similar requests will be made in future.
29. One agent whilst appreciating that the design of the expenses forms is outside of the control of the Returning Officer suggested that the forms are confusing. This comment was passed to Shaw and Sons who produce the forms and they have acknowledged that the forms can benefit from updating which they will be undertaking shortly.
30. All of the issues raised will be taken into account in relation to the planning and running of future elections.

Review of Procedures

31. A thorough evaluation has been undertaken of all of the processes outlined in the Project Plan taking account of feedback from agents etc.
32. A Project Team comprising the Returning Officer and the three Deputy Returning Officers met regularly between December 2011 and May 2012 to ensure that the processes were undertaken at the appropriate times.
33. Sufficient resources were allocated to the election. In setting the budget for 2012/13 account was taken of the need to cover the cost of an additional election (the Hastingwood, Matching and Sheering Village District ward not scheduled for 2012 but required following a boundary change).
34. The level of staffing for polling stations, verification and the count were adequate. Assumptions made about the level of staff required for the issue and opening of postal votes proved correct as these proceedings were all completed in good time. IT network connections in Committee Room 1 worked without interruption including use at the close of poll on 3 May for scanning postal votes handed in at polling stations. Directors were helpful in making officers available for all of the processes.
35. Poll cards and ballot papers were printed internally by the reprographics section within the specified timescales. Being in-house it was easy for officers to liaise with the printers and achieve speedy turnaround times for approving drafts etc.
36. Training was provided for Presiding Officers and Senior Count staff.
37. Using, with only one exception, established polling stations ensured that the buildings were suitable. As mentioned earlier an issue arose on polling day about the condition of the ramp leading to the Allnutts Institute Polling Station and this will be addressed before the Police and Crime Commissioner election in November 2012. The previously unused St Mary's Church at Stapleford Tawney was inspected before it was booked and proved to meet the standard required.
38. Theydon Bois Village Hall again proved to be a good venue for the verification and count on 4 May. The Hall was laid out on the afternoon of 3 May so that a prompt start could be made on 4 May. There is inadequate parking on site to accommodate all those attending but by liaising with the Director of the Environment and Street Scene and the Parking Office and issuing notices for display on car dashboards it was possible for parking to take place on nearby streets where parking restrictions apply. Members will be aware that there is not a suitable alternative venue readily available in the District. As outlined above an issue arose in relation to the reservation of some parking spaces for the nursery held at the Village Hall and this

will be addressed in relation to future counts.

39. Electors were allocated to polling stations having regard to electoral Commission guidance. Generally turnout was quite low and there were no instances of queuing for ballot papers.
40. Despite a restructuring of the Police resulting in less resources being available for the election an adequate level of support was provided. A meeting was held with the SPOC and agreement reached on a Policing Plan which was subsequently delivered.
41. Arrangements for the security of ballot boxes at the close of poll, storage overnight and delivery to the count centre on the following day worked according to plan.
42. Once the ballot papers had been printed a system was put in place to ensure that they were securely stored and free from interference at all times. Staff checking books of ballot papers ensured that the papers were not left unsupervised at any time.
43. The Council's Public Relations and Marketing Officer supported by the Website Officer attended meetings as required and ensured that appropriate publicity was made available at all stages.
44. Stationery and equipment levels were checked at an early stage and adequate supplies obtained. On polling day there were no calls to the Elections Office for additional items of equipment.
45. Nomination forms were informally checked when received and this enabled agents to correct some errors before the close of nominations. Agents were provided with detailed guidance about the various processes.
46. All of the statutory timescales were met.
47. Throughout the election period the elections office was staffed for the handling of queries from electors, agents and candidates.

Lessons Learned

48. Broadly speaking there were no key issues arising at the May 2012 elections. Generally all practices were completed successfully and this is reflected in the comments made by appropriate stakeholders.
49. Issues regarding the condition of established polling stations emphasises the need to check the condition/suitability of buildings between elections. This can be achieved by seeking assurances from those responsible for the buildings when bookings are made. The need for possible repair works to buildings is a matter for discussion with those responsible for the buildings. At present there is no budget provision enabling the Council to contribute to any such works but this may need to be reviewed if there is no other suitable building in the locality.
50. The small number of electors voting at St Edmunds Church Hall suggests that this is no longer a viable polling station bearing in mind that all the electors attending that polling station did so by car and would be able to travel a little further to the Matching Village Hall. The reason the number of electors is now so small at St Edmunds Church Hall is that the electors involved in the boundary change moved from voting there to the Matching Village Hall and those left at St Edmunds is considerably less than before.

51. There are some concerns about the number of postal votes rejected because of a mismatch between signatures on the application form and the postal vote statement. It is felt that many of these result from electors changing their signatures over time. It is hoped that the number will reduce with the introduction of applications being sent out seeking an updated signature.
52. The majority of calls to the Elections Office on polling day were from electors in wards where elections were not being held. In future increased publicity will be given to identify those areas where elections are not taking place.
53. Some fairly minor issues in relation to the count centre at Theydon Bois Village Hall will be addressed at future elections. Arrangements will be made to display the verification statements.
54. All of the issues raised will be taken into account in relation to the planning of the Police and Crime Commissioner election being held in November 2012. However holding an election at that time of year will pose additional issues which will be reflected in the Project Plan and Risk Register for that election.

Members' Views

55. Members are invited to express views on the running of the Elections held on 3 May 2011 which will also be taken into account for future elections.

Report to the Constitution and Member Services Standing Scrutiny Panel



Date of meeting: 16 July 2012

Report of: Assistant to the Chief Executive

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

Responsible Officer: I Willett (01992 564243)

Democratic Services Officer: Mark Jenkins (01992 56407)

Recommendations:

- (1) To consider proposals from the AGC for a further review of Article 11 of the Constitution (Terms of Reference of the AGC);
- (2) To determine those changes to be recommended to the Overview and Scrutiny Committee and the Council including the proposed revisions to Article 11 as shown in Appendix 1 namely:
 - (a) no change in the number of AGC members;
 - (b) no change in the balance between Councillors and independents on the Committee;
 - (c) introduction of an informal performance and attendance standards (option of 3 or 4 meetings per Council year);
 - (d) Councillors on AGC not to be appointed on pro-rata rules but on the basis of evidence of aptitude, experience or interest as assessed by the relevant Group Leader;
 - (e) no restriction on whether the roles of Chairman and Vice Chairman are performed by Councillors or Independents with appointments to be made by the AGC;
 - (f) no separation of AGC into separate Audit and Governance Committees; and
 - (g) 3 year terms of office (overlapping) for independent members with a limit of 2 terms, further terms dependent on success in open competition;
- (3) To consider recommending that pro rata requirements under Sections 15 and 16 of the Local Government and Housing Act 1989 be waived in accordance with Section 17 of that legislation; and
- (4) To consider whether further consultation with the AGC is required on the final proposals to be reported to the Overview and Scrutiny Committee and the Council.

Report:

1. When this Panel considered Article 11 of the Constitution (Audit and Governance Committee) on 8 November 2011, this was to deal with a review of its membership rules. As a result, the Council adopted proposals to allow Portfolio Holder Assistants to serve on the Committee subject to a review of this change after 1 year.
2. At that time, it was reported that the AGC wished to carry out a further review of Article 11 in a number of respects. The Committee considered a report on this review at its last meeting. A copy of that report is attached as Appendix 2.

Review Items

3. Those items identified for review are outlined in Appendix 2 and the views of the AGC are discussed below:

Should there be a Majority of Independent Members?

4. Although the Committee was not opposed to a requirement for a majority of independents to serve on the Committee, members felt that independence is not a matter of political or non-political affiliation, but rather it depends on the personal integrity of Councillors and independents alike, and for all to be open-minded, objective and constructive. As the Committee could not call to mind any instance when political sympathies had come into a debate, they were content that the Committee acted with due independence already and there was no need to change the balance of councillors to independents. On a practical level, if the number of independents were increased, the process of recruiting of suitable persons might be more protracted
5. In any event, as a result of reviewing the arrangements operating in other Essex Districts, the Committee was satisfied that EFDC was some way ahead of other Councils in involving independent persons.

Proposal: None are brought forward.

The Number of Committee Members

6. The AGC was happy with the present number of members although, as there were only a total of 5 at present, there was a need for all to play a full part and show a good attendance record.
7. With this in mind, the Committee is asking for consideration to be given to setting an attendance and performance standard in Article 11.

Proposal: New provision relating to attendance standard for all members of the Committee.

Selection of District Councillors to serve on the Committee

8. The AGC is concerned to reinforce the independence of the Committee by providing for the 3 Councillor seats to be filled on non-party lines. Currently, these seats are allocated on pro rata rules based on group numbers on the Council. Currently these rules provide 2 Conservatives and 1 LRA member. The Committee wishes to see appointments made on the basis of evidence of aptitude, experience or interest in audit and governance, rather than through the pro rata calculation.

9. The AGC also raised the issue of non-attendance and the contribution made by individual members and consider that a performance standard should be set for both Councillors and the independent members. The Committee felt that if the pro rata requirement is to be set aside, qualification and performance conditions must be replace this.
10. The Audit & Governance Committee considered that there should be a procedure for replacing members of the Committee with poor attendance records mid term rather than when appointments come to an end. This would apply to both Councillors and independent members. Against this should be balanced the fact that there are only 5 meetings of the Committee each year and there might be very good reasons why one or two meetings could be missed. A suggested amendment to Article 11 is that an attendance standard of at least 3 meetings in any one year is suggested. The standard for attendance could be set at 4 meetings if the Panel so wishes
11. Normally there are 4 "ordinary meetings" each Council year plus 1 meeting to deal with the Council's annual accounts.

Proposals:

(i) To recommend to the Council that appointments to the three Councillor seats on the AGC should be excluded from pro rata.

(ii) To amend Article 11 to provide for:

- **rules to be followed regarding performance (attendance and performance) by those Councillors; and**
- **rules regarding selection of Councillors for those seats.**

provision for replacing members of the Committee on grounds of attendance at fewer than half the number of meetings held and the rules for this.

AGC to Appoint its Own Chairman?

12. The AGC look to emphasise the political independence of the Committee by relaxing the current rule that its Chairman must be a Councillor and its Vice Chairman one of the independent members. The AGC sees no compelling reason why the Chairman should not be an independent member. By the same token, the Committee feels that the Vice Chairman could equally well be a Councillor. However AGC would wish to avoid both the Chairmanship and Vice Chairmanship being held by either Councillors or independent members.
13. AGC further proposes that its Chairman and Vice chairman should be appointed by the Committee at its first meeting each year rather than at the Annual Council meeting.

Proposal

That the AGC Chairman/Vice Chairman be appointed from among all members of the Committee at its first meeting each year (rather than at the Annual Council meeting).

Separation of the present AGC into separate Audit and Governance Committees?

14. The AGC did not support this proposal, believing that there is probably insufficient workload to justify two Committees. They also took the view that two Committees would add to costs.
15. The AGC wishes to await the Government's proposals for statutory Audit Committees before reaching a view on this proposal.

Proposal: No change

Fixed terms of office for the Independent Members of AGC?

16. At present, the independents are subject to annual re-appointment for one year at a time. There is no restriction on the number of times they can be re-appointed. Members felt that a longer term of office (based on the system used for the Standards Committee) coupled with a limit on the number of terms would be preferable in that it allows for performance to be assessed and over-familiarity avoided.
17. AGC proposes a 3 year term of office and a maximum of 2 terms, unless an independent member is successful in open competition for a third or subsequent term. After the initial term of office (3 years) AGC also considers that the second term of 3 years should only be available if performance is satisfactory.
18. Similar to their ideas on the Councillor members, AGC consider that there should be a requirement for feedback to members during each year on performance/attendance which should be set out in Article 11. These terms of office should overlap so as to ensure that, in the event of independent members leaving the Committee, not all the experience would be lost at the same time.
19. The Committee emphasises that good attendance by independent members is important in view of the quorum requirement. Absence by one independent member places an unfair burden on the other individual.

Proposals

- **3 year term of office**
- **Maximum of 2 terms**
- **3 or more terms subject to open competition**
- **overlapping terms of office for the two independent members**
- **performance/attendance appraisal for independents during each term of office.**

Constitutional Changes

20. Appendix 2 sets out proposed revisions to Article 11 of the Constitution (bold text and underlined) which reflect the views of AGC.
21. The removal of pro rata requirements from the appointment of Councillor members to the AGC is subject to a statutory role under Section 17(1) of the Local Government Act 1989 namely:

"... Section 15 and 16 (i.e. pro rata provisions) shall not apply in relation to appointments by a relevant authority ... in so far as different provision is made by arrangements approved by the Authority without a member of the Authority voting

against them”

22. This means that a proposal to waive pro rata can only be approved if no member votes against it. Abstentions would not affect such a decision.

Z:/C/CONSTITUTION & MEMBERS SERVICES SCRUTINY STANDING PANEL/2012/AUDIT AND GOVERNANCE
COMMITTEE (AGC) – ARTICLE 11

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ARTICLE 11 - AUDIT AND 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

- (a) The Committee shall comprise 5 members, including 3 Councillors and 2 co-opted persons.
- (b) **All Councillors to serve 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 term of 3 years from appointment by the Council and shall be eligible to serve for one further term. Appointments are also subject to paragraphs 11.6(b) and 11.12(b) below.**

~~(e)~~(d) Casual vacancies on the Committee 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.

Appointments shall be made on the basis of evidence of the aptitude, experience or interest of the Councillors concerned and for this purpose the normal rules for pro rata membership 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 as 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.

Co-opted members shall serve for a period of 3 years from appointment. A co-opted member shall serve for no more than two terms 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.

11.7 Chairman and Vice Chairman

(a) The Chairman and Vice Chairman of the Audit and Governance Committee shall be appointed at **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 5.3 above).

(d) The offices of Chairman and Vice Chairman shall be open to both Councillors serving on the Committee and co-opted members.

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

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) All members of the Committee should seek to attend all meetings of the Committee unless there are exceptional circumstances which prevent this. The Committee will be entitled to seek from the Council a replacement of any of its members who fail to attend at least three meetings of the Committee in any one year They are also expected to participate fully in the proceedings of the Committee, availing themselves of any training, advice and written material to enable them to undertake their role fully.

(d) All members shall hold informal discussions with the Chairman of the Committee once a year to appraise separately their contribution to the work of the Committee and their attendance record at meetings.

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Report to Constitution and Member Services Scrutiny Standing Panel

Date of meeting: 16 July 2012

Subject: Member Complaints Panel – limits of jurisdiction

Officer contact for further information: J. Filby

Committee Secretary:



Recommendations/Decisions Required:

- (1) That revisions to the limits of jurisdiction of the Complaints Panel be approved;
- (2) That a report be submitted to the Overview & Scrutiny Committee and 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:

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.

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

a) 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: 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.

b) 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: 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 cannot still 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. This additional restriction would therefore bring the Council's complaints scheme into greater accord with that of the Ombudsman.

c) 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 7:30pm as officers would then also be entitled to an attendance allowance. It is therefore 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 Councils discretion in determining whether such cases should proceed to Step 4.

4. Members are asked to note that, if a complainant feels they have been wrongfully denied a Step 4 review, then they are entitled to make that complaint to the Local Government Ombudsman.

Next Steps

5. If the Panel approve the proposed changes they should recommend these for adoption to the Overview & Scrutiny Committee and the Council.

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Report to Constitution and Member Services Scrutiny Standing Panel

Date of meeting: 16 July 2012

Subject: Substitutions at Meetings

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

Committee Secretary: M Jenkins (01992 56 4607)



Recommendations/Decisions Required:

- (1) To review Operational Standing Order 14 – Non Executive Bodies; and
- (2) That any amendments to the process of substitutions be recommended to the Overview and Scrutiny Committee and Council for approval.

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 Committees and the District Development Control Committee. The Panel recommended that the procedure be amended allowing 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 up 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.
3. Officers feel that the generic email, "Democratic Services," for Group representatives to notify officers at Research and Democratic Services of substitutions is not always being used. This can lead to difficulties if a committee secretary covering the meeting concerned is on leave and cannot acknowledge the email.
4. Otherwise, from the point of view of officers the substitution process appears to have worked efficiently. The Panel is asked to review the process from a member perspective.

Reason for decision:

Annual review requested by the Constitution and Member Services Scrutiny Standing Panel.

Options considered and rejected:

Consultation undertaken:

Resource implications:

Budget provision:

Personnel:

Land:

Community Plan/BVPP reference:

Relevant statutory powers:

Background papers:

Environmental/Human Rights Act/Crime and Disorder Act Implications:

Key Decision reference: (if required)

APPENDIX

OPERATIONAL STANDING ORDERS – NON-EXECUTIVE BODIES

14. Appointment of Substitute Members of Committees, SubCommittee, 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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