

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION AND MEMBERS SERVICES SCRUTINY
STANDING PANEL
HELD ON TUESDAY, 25 JUNE 2013
IN COMMITTEE ROOM 1
AT 7.00 - 9.32 PM**

Members Present: J Philip (Chairman), A Watts (Vice-Chairman), R Cohen, R Morgan, Mrs C Pond, Mrs M Sartin, Mrs P Smith, D Stallan and Mrs J H Whitehouse

Other members present:

Apologies for Absence: G Waller

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)

1. NOTES OF THE LAST MEETING

RESOLVED:

That the notes of the last meeting of the Panel held on 26 March 2013 be agreed.

2. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was noted that Councillor Mrs P Smith was substituting for Councillor G Waller.

3. DECLARATION OF INTERESTS

No declarations of interests were made pursuant to the Member Code of Conduct.

4. TERMS OF REFERENCE / WORK PROGRAMME

(a) Terms of Reference

The Terms of Reference were noted.

(b) Work Programme

It was advised that Item 7 (Officer Delegation) would be reviewed by the Audit and Governance Committee at the request of the Overview and Scrutiny Committee and they would report to this Panel.

5. ELECTIONS - 2 MAY 2013

The Panel received a report regarding the County Council Elections and District Council By-Election of 2 May 2013, from the Deputy County Returning Officer/Returning Officer.

The following seven County Council Divisions were contested on 2 May 2013:

Buckhurst Hill and Loughton South
Chigwell and Loughton Broadway
Epping and Theydon Bois
Loughton Central
North Weald and Nazeing
Ongar and Rural
Waltham Abbey

There was a District Council by-election for a seat in the Waltham Abbey Honey Lane Ward to fill a vacancy arising from a resignation.

Turnout

Overall turnout was 25.07% and turnout for the District Council by-election was 20.50%.

The level of turnout was disappointing, numerous complaints were received by the Council and at polling stations about the lack of available information on the candidates. Neither the Council nor the Returning Officer were able to publish candidates' manifestos.

Arrangements

A Project Plan and a Risk register for the elections were prepared and updated on a regular basis from the beginning of the year.

The Electoral Commission issued a direction to Returning Officers to report their performance against set standards regarding planning and organisation, administering the poll, absent voting, verifying and counting the votes and action after the poll.

The Commission did not raise any significant queries in relation to the submitted material and had subsequently confirmed that based on their analysis of the information submitted, officers had met all the necessary standards.

Polling Stations

80 established Polling Stations were provided in 72 different buildings on 2 May 2013. 72 Presiding Officers and around 120 Poll Clerks were appointed.

On election day, representations were made about some of the buildings.

At the Allnutts Institute, Allnuts Road, Epping, a farm type gate, which appeared solid but would not act as a handrail if grabbed after tripping. Discussions would take place with the owners of the building about remedial works.

An elector in a wheelchair found it difficult entering the polling station at the Hastingwood Village Hall. The doorframe had a raised sill at floor level, the doorway was quite narrow but could accommodate a wheelchair. The raised sill was a potential hazard. Discussions would take place with the owners of the building about potential improvements.

The Whitebridge Junior School, Loughton, had two entrances, one in Greensted Road, the other in Southern Drive. It was necessary for both entrances to be open as the distance between the two for pedestrians was significant. Representations were received on polling day that there was inadequate signage from the Southern Drive entrance resulting in some electors walking around the school looking for the polling station. The Presiding Officer provided additional signage and the need for this would be emphasised to Presiding Officers in the future.

A complaint was made to one Presiding Officer about the lack of a Notice of Poll inside a polling station. This had been the case for several elections since the Electoral Commission advised that this notice was not listed in the legislation as being one for display in a polling station.

Postal Votes

The total number of postal vote packets issued was 8,115. Only 4 packs failed to reach the electors in the post and were re-issued. 71% were returned which equated well with previous elections. No arrangements were made for a final sweep of sorting offices to locate postal votes, 26 postal votes were handed in at polling stations. In the post immediately following polling day, 51 postal vote packages were received.

The issue and opening sessions for postal votes went smoothly, there was no evidence of any significant postal vote found although 145 postal votes were rejected for various reasons.

The Electoral Registration and Administration Act 2013 provided for regulations to be made which required from next year that Electoral Registration Officers inform electors, after a poll, that their postal vote identifiers had been rejected.

The Elections Office received a complaint from an elector that the Electoral Registration Officer had breached the elector's data protection rights by revealing that she was a postal voter to a candidate. Elected representatives, candidates, registered political parties and local constituency parties can request that the Electoral Registration Officer supply them with the current or final version of the absent voting lists for a particular election, for helping their campaigns. There was no question of a breach of data protection. However, it was the working of the candidate's literature to the elector which the elector took exception. The literature stated that the candidate was aware of the elector's postal vote status from the published list by the Electoral Registration Officer, and this had been interpreted by the elector as the list having been published for anyone to see details of the elector's mode of voting. Agents would be asked in future to be more sensitive with the wording of similar addresses to postal voters as misunderstandings of this nature could lead to a disincentive to vote.

Ballot Papers

The proofs of all of the ballot papers were scrutinised carefully and all ballot papers were printed in the correct format.

Spoilt Papers

There was little evidence of spoilt ballot papers at the count, the highest number of papers rejected was 18 in Waltham Abbey. The number rejected in the District Council Waltham Abbey Honey Lane by-election was 40, possibly due to there being only two candidates.

Verification and Counts

Verification and counting of ballot papers took place at Theydon Bois Village Hall immediately following the close of poll. This did not follow the national scene where most counts occurred the following day, 3 May. Despite staff being tired after a long day, both processes went very smoothly and the count finished ahead of schedule.

Police Liaison

Discussions were held with the police prior to the election and, as in previous years the police support was good. There were no instances requiring immediate police presence outside of the regular visits.

Complaints and Queries Received in the Elections Office

There were very few telephone calls made to the Elections Office on 2 May by electors.

Tellers

Tellers in a number of polling stations had left heaps of poll cards on the floor of the areas they had occupied during the day. At one polling station a teller left unattended a box, rosette and poll cards for the next teller. The Presiding Officer took the items into the polling station for safe keeping but was criticised for doing so by the next teller. It was advised that the information sheet sent to election agents and candidates was not to leave poll cards lying around, and not to put them in bins at the polling station.

At another polling station an elector complained about being asked by a teller for their details on their way into the station. The Electoral Commission guidance stated that tellers could ask electors for their details on their way in or out of a station. However following a local consultation in 2011, the resounding local opinion was that tellers should continue of only approaching electors after they had voted.

Feedback from Election Agents and Candidates

Feedback had been very good. One agent advised that tellers for one polling station reported the need for better signage as there were other activities taking place at the venue. The agent had also said that more importance should be given at the count to the piles of 50 votes laid out in lines so that candidates and agents could better appreciate the build up to the final result. The distracting background noise during the announcement of results and the failure of winning candidates to be asked to identify themselves, was another issue.

Lessons Learned

Broadly, there were no key issues arising from the elections. Generally all practices were completed successfully.

The Panel expressed its thanks for all the staff who worked on the elections.

RECOMMENDED:

That the report regarding the election of 2 May 2013 be recommended to the Overview and Scrutiny Committee.

6. EMPLOYMENT PROCEDURE RULES

The Panel received a report regarding Employment Procedure Rules from the Assistant to the Chief Executive.

On 14 February 2012 the Council adopted new procedures for top management officer appointments within the Council. This had followed a specially convened review by a Task and Finish Panel exploring concerns about the contractual arrangements for previous Chief Executives. As part of this process, Counsel was instructed to advise on the Council's Redundancy and Redeployment Policy and Procedure and carry out a review of the Constitutions Staff Employment Rules and Operational Standing Orders, ensuring that all processes were consistent.

Staff Employment Procedure Rules

The current rules derived from the Local Government Act 2000 and represented statutory advice from the Government. These rules covered matters such as recruitment and appointment of staff, redundancies, dismissals and disciplinary action for all posts, particularly those at top management level.

Counsel's Opinion

Counsel had advised that the Officer Employment Procedure Rules did not cover dismissal. He suggested that the Constitution's Operational Standing Orders – Staff should be integrated into the rules with clarification concerning dismissal by reason of redundancy. Counsel recommended as well that the position of certain key post holders must be clarified.

Right of Objection to Appointments/Dismissal by the Executive

The Local Authorities (Standing Orders) Regulations 2001 put in place certain procedures allowing the executive of a Council to object to a proposed appointment of a range of senior positions or for dismissal from those positions and required Council to determine whether or not any objection received was sound.

The Task and Finish Panel called for more clarity in the Staff Employment Procedure Rules regarding the process adopted in allowing the Executive to object where appropriate. Those procedures were set out in the Operational Standing Orders.

RESOLVED:

- (1) That the Assistant to the Chief Executive review the provision of Rule 9.1.2 regarding temporary suspension of a Chief Executive and who should be responsible for that decision; and
- (2) That Rule 9.1.3 be amended to include a timescale for convening a Panel to review/extend a temporary suspension within the initial suspension period of 10 days.

RECOMMENDED:

- (1) That a report be submitted to the Council recommending as follows:
 - (a) That, in accordance with the advice of Counsel, the Staff Employment Procedure Rules (including the Operational Standing Orders for Staff) be adopted as set out in the attached appendix and subject to the amendment of rules and as indicated above;
 - (b) that the Council appoint at this meeting 7 deputies for the present Restructuring Review Panel on the nomination of Group Leaders so as to ensure that the Council is able to comply with the requirements of the revised Employment Procedure Rules when adopted;
 - (c) that, when required, a second Panel be formed from among the seven members and deputies appointed to the Restructuring Panel to deal with any appeals under the Employment Procedure Rules subject to the seven members concerned not having been involved in the original decision;
 - (d) that all members and deputies serving on the Restructuring Review Panel be trained in the requirements of those rules and related legal requirements before the Directorate Restructuring process commences;
 - (e) that the Finance and Technology Portfolio Holder be asked to review whether there is sufficient budgetary provision for training for Panel members in the current year (d), that a similar pool of 14 Panel members and deputies be appointed at future Annual Council meetings so that the Council is able to respond promptly when the Employment Procedure rules are engaged and that all appointed members and deputies be trained in the relevant procedures when required; and
 - (f) that the Chairman and Vice Chairman of any Panel convened in future years for the purposes of the Employment Procedure Rules be appointed by Panel members at the meeting concerned.

7. PROCESS REVIEW ON APPOINTMENT OF VICE CHAIRMAN OF COUNCIL

The Panel received a report from the Senior Democratic Services Officer regarding the Vice Chairman of Council – Appointment Review.

At the annual meeting of the Council it had been agreed that the Overview and Scrutiny Committee should be asked to undertake a review of the process for the nomination to and appointment of the Vice Chairman of Council. The Committee had delegated the review to the Panel.

Members asked that officers research the policies of other councils regarding their appointment process and also provide further information on the Point System used by this Council in the past.

RESOLVED:

That a further report be submitted to this Panel with information regarding how other Local Authorities arranged their appointment process for the position of Vice Chairman of Council and including the Point System used previously by the District Council.

8. CONVENTION ON THE RELATIONSHIP BETWEEN POLITICAL GROUPS AND COUNCILLORS WITH OFFICERS

The Panel received a report from the Assistant to the Chief Executive regarding Convention on the Relationships between Political Groups and Councillors with Officers.

The Council's Constitution contained conventions regarding the management of relationships between political groups, Councillors and officers. The Management Board felt that these conventions should be reviewed in the light of current experience. This report and proposed changes were considered at the Panel's last meeting, but were deferred pending consultation with Councillors via the Bulletin.

(a) Entitlement to Information

The revised wording of these paragraphs remained.

(b) Paragraph 2.1

This paragraph had been amended to make reference to the Freedom of Information and Data Protection Acts.

(c) Paragraphs 2.3, 2.4 and 2.5

The current wording was submitted at the last Panel meeting and caused controversy about the position of Directors in relation to Portfolio Holders. Management Board had looked at this issue again, directors concluded that these paragraphs had attempted to put in place a system which may be unworkable. A more simple approach was that all requests for the supply of information should be treated as confidential, irrespective of political groups.

(d) Paragraph 4.3 (Briefing of Political Groups)

This was a new paragraph which reflected current practice in relation to Group Leader's meetings which had recently been revived.

(e) Paragraph 5.2 (Casting Vote)

This paragraph had been extended to provide more advice to Chairmen regarding the issue of the second or casting vote for the status quo. The new wording dealt with situations where effectively there was no status quo relating to regulatory decisions such as planning, licensing and appeals of various kinds. The advice was that in those circumstances chairmen must vote in accordance with their own judgement of the issues concerned.

(f) Paragraph 6.2 (Relations with the media)

There was a small addition to this paragraph clarifying the circumstances where members could speak directly to the media on any issue.

(g) Paragraph 6.5 (Relations with the Media – Election Periods)

This new paragraph drew attention to the special requirements for Council publicity during election periods.

(h) Paragraph 8.1 (Facilities for Members)

The wording of this paragraph had been slightly amended to refer to Democratic Services, it referred to securing typing services from the Council. Members suggested that this should be amended to an application to Democratic Services.

Results of Consultation

One representation had been received from a member of the Council dealing with email and staff/member interactions. The Panel supported the creation of a guide for Members identifying senior staff in the Council and providing guidance on email contacts.

RESOLVED:

That the issues raised in consultation with Councillors concerning new members and email correspondence be referred to officers for appropriate advice to be given.

RECOMMENDED:

That the report regarding the Convention on the Working Relationships between Political Groups and Councillors with Officers be recommended to the Overview and Scrutiny Committee for approval with the additional:

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

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

- (a) Elections – 2 May 2013;
- (b) Employment Procedure Rules; and
- (c) Convention on the Relationship between Political Groups and Councillors with Officers.

10. FUTURE MEETINGS

The next meeting of the Panel would be held on 24 September 2013.