

**Scrutiny Standing
Panel Agenda**



**Constitution and Members Services Scrutiny Standing
Panel
Tuesday, 25th June, 2013**

You are invited to attend the next meeting of **Constitution and Members Services Scrutiny Standing Panel**, which will be held at:

**Committee Room 1
on Tuesday, 25th June, 2013
at 7.00 pm .**

**Glen Chipp
Chief Executive**

**Democratic Services
Officer**

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

Members:

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

SUBSTITUTE NOMINATION DEADLINE:

18:00

1. APOLOGIES FOR ABSENCE

2. NOTES OF THE LAST MEETING (Pages 5 - 14)

To agree the notes of the last meeting of the Panel held on 26 March 2013 (attached).

3. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

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

4. DECLARATION OF INTERESTS

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

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

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

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

5. TERMS OF REFERENCE / WORK PROGRAMME (Pages 15 - 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. ELECTIONS - 2 MAY 2013 (Pages 21 - 28)

(Returning Officer) To consider the attached report.

7. EMPLOYMENT PROCEDURE RULES (Pages 29 - 50)

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

8. PROCESS REVIEW ON APPOINTMENT OF VICE CHAIRMAN OF COUNCIL (Pages 51 - 52)

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

9. CONVENTION ON THE RELATIONSHIP BETWEEN POLITICAL GROUPS AND COUNCILLORS WITH OFFICERS (Pages 53 - 66)

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

10. 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.

11. FUTURE MEETINGS

The next programmed meeting of the Panel will be held on Tuesday 24 September 2013 at 7.00p.m. in Committee Room 1 and then on:

- Tuesday 19 November at 7.00p.m. in Committee Room 1

- Tuesday 14 January 2014 at 7.00p.m. in Committee Room1
- Tuesday 18 March at 7.00p.m. in Committee Room 1

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**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION AND MEMBERS SERVICES SCRUTINY
STANDING PANEL
HELD ON TUESDAY, 26 MARCH 2013
IN COMMITTEE ROOM 1
AT 7.00 - 9.00 PM**

Members Present: Mrs M Sartin (Chairman), A Watts (Vice-Chairman), A Boyce, A Mitchell MBE, R Morgan, J Philip and D Stallan

Other members present:

Apologies for Absence: R Cohen, J Markham, B Rolfe, Mrs J H Whitehouse and G Waller

Officers Present I Willett (Assistant to the Chief Executive), R Wilson (Assistant Director (Operations)), G Lunnun (Assistant Director (Democratic Services)) and M Jenkins (Democratic Services Assistant)

48. NOTES OF THE LAST MEETING

RESOLVED:

That the notes of the last meeting of the Panel held on 27 February 2013 be agreed.

49. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was noted that Councillors Mrs A Mitchell MBE and A Boyce were substituting for Councillors B Rolfe and G Waller respectively.

50. DECLARATION OF INTERESTS

Pursuant to the Council's Code of Member Conduct, Councillor D Stallan declared a non pecuniary interest in the following item of the agenda, by virtue of being the Housing Portfolio Holder. He advised that this report had originated from the Cabinet and although the Localism Act gave him the right to sit and vote he felt that on this occasion he could not vote, however he would assist the debate:

- Item 7 Housing Appeals and Review Panel – Terms of Reference – Exclusion of Housing Applicants from the Housing Register.

51. TERMS OF REFERENCE / WORK PROGRAMME

(a) Terms of Reference

The Panel's Terms of Reference were noted.

(b) Work Programme

(i) Item 21 Employment Procedure Rules - Revision

Officers were awaiting legal advice from Counsel, therefore this item would be held over to the next municipal year.

52. HOUSING APPEALS AND REVIEW PANEL - TERMS OF REFERENCE - ORDER OF PRESENTATION OF CASES

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

At the request of the Housing Appeals and Review Panel (HARP), consideration was given in February 2012, by this Panel, to altering the order of presentation of cases at the HARP meetings.

Members were advised at that time that a change in the order of presentation, with the Housing Officer presenting the case first.

Members and substitutes of the HARP were consulted at the time and although there was not a consensus view, the majority expressed support for the proposals.

The Scrutiny Panel decided that the existing order of proceedings with the applicant/appellant presenting their case first should be retained but that provision should be made to reverse the order if requested. This decision was subsequently adopted by the Council. The Panel decided to review the matter during the year.

Since the Scrutiny Panel's consideration of the matter last year, the HARP had considered seven cases. In four of these the applicant/appellant had presented their case first, in the other three cases the order of presentation was reversed at the request of the applicant/appellant.

RECOMMENDED:

That the following changes be made to the Terms of Reference of the Housing Appeals and Review Panel Order of Presentation of Cases

(a) that the normal order of presentation of cases at meetings of the Housing Appeals and Review Panel be changed to provide for the case officer presenting their case before the applicant/appellant; and

(b) that paragraphs (6) and (7) of the Terms of Reference of the Panel be amended as follows:

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

- (a) Chairman's introductory remarks;
- (b) Presentation of the Officer's case;
- (c) Questioning by the applicant (or representative);
- (d) Questioning by members of the Panel;
- (e) Presentation of the applicant's case;

- (f) Questioning by the Officer;
- (g) Questioning by members of the Panel;
- (h) Summing up by the applicant;
- (i) Summing up by the Officer;
- (j) Panel considers its findings in the absence of the applicant and the Officer;
- (k) The decision of the Panel will be conveyed to the applicant and Officer in writing.
- (l) The Panel shall have discretion to reverse the order in which the cases of the applicant and the Council are presented, provided that both parties agree.
- (7) If requested by the appellant/applicant or their representative, the Chairman may agree to (6)(b)-(d) above taking place after (e)-(g) and to (h) and (i) being reversed”.

**53. HOUSING APPEALS AND REVIEW PANEL - TERMS OF REFERENCE
EXCLUSION OF HOUSING APPLICANTS FROM THE HOUSING REGISTER**

The Panel received a report from the Assistant Director of Housing, Operations, regarding the Terms of Reference for the Housing Appeals and Review Panel – Exclusion of Housing Applicants from the Housing register.

The Council on 20 April 2010 amended the Terms of Reference of the Housing Appeals and Review Panel (HARP), concerning making appeals against any decision made by Housing officers on any housing matter. The amendment stipulated that housing clients could only appeal on specific issues from the 2010/11 municipal year. Under the new Government guidance, authorities were given powers to decide locally on how accommodation should be allocated based upon local priorities , in any way they saw fit, provided schemes were both legal and rational.

The new draft scheme was considered by the Housing Scrutiny Standing Panel in December 2012. Under Section 14 of the proposed new scheme, if an applicant did not meet the following Local Eligibility Criteria they would not qualify to either remain on, or join the Housing Register. These were:

- (a) Residency – an applicant who had lived in the Epping Forest District for less than three continuous years immediately prior to their date of registration.
- (b) Exceptions to the Residency Criteria – Armed Forces Regulations – Any member or former member of the Armed Forces applying within five years of discharge, or a bereaved spouse or civil partner of a member of the Armed Forces leaving services’ family accommodation following the death of their spouse or civil partner.

Any spouse or child of existing or former Armed Forces Personnel, if one of their qualifying family members had lived in the district for more than three continuous years immediately prior to their date of registration.

Any serving or former member of the reserve Forces who needed to move because of serious injury, medical connection or disability sustained as a result of their service where the application was made within 5 years of discharge.

Other Criteria

An applicant must have a housing need as defined by at least one Banding Criterion, must not have sufficient funds enabling them to meet their own housing costs under the limits set out under the scheme, and must not have been guilty of serious unacceptable behaviour as set out in the scheme within the last three years.

It was advised that there were around 6,600 homeseekers on the Council's Housing Register. If the draft Housing Allocations Scheme was agreed by the Cabinet, it was estimated that around 3,000 homeseekers would no longer qualify for inclusion and therefore would be removed from the Register. In law, every applicant had the statutory right to request a review of certain decisions on allocations and to be informed of the decisions on review and the grounds for it. If the Local Eligibility Criteria was agreed by the Cabinet, it was expected that both a high number of the estimated 3,000 homeseekers who would not qualify to remain on the register, and non-qualifying new applicants in the future were likely to request their statutory right to a review. It was therefore anticipated that, unless the Terms of Reference of the HARP were changed, the HARP and officers would be unable to cope with the numbers of appeals which would be unfair on appellants.

The Housing Scrutiny Standing Panel had therefore recommended to the Cabinet that the right of appeal to the Housing Appeals and review Panel to applicants who had been excluded from the Housing Register be revoked, with all statutory reviews being dealt with by senior officers who had not been involved with the original decision, with effect from the Council meeting on 23 April 2013.

RECOMMENDED:

(1) That, subject to the Cabinet (i) adopting a revised Housing Allocations Scheme, and (ii) agreeing that the right of appeal to the Housing Appeals and Review Panel by housing applicants is excluded from the Housing Register be revoked, a report be submitted to the Council recommending:

(a) the removal of the following from the terms of reference of the Housing Appeals and Review Panel:

“(1)(c) – exclusion of housing applicants from the Housing Register”; and

(b) the consequential amendment of the Constitution.

54. REVIEW OF OUTSIDE ORGANISATIONS

The Panel received a report from the Assistant to the Chief Executive regarding Protocol on Partnerships and External Organisations.

The Protocol on Partnerships and External Organisations gave advice to Councillors and officers who served as the authority's representatives on outside organisations. The Protocol covered a number of areas including appointment procedures, reports by representatives, agreements with external organisations regarding the proper role of elected and officer representatives, insurance and conflicts of interest.

(a) Paragraphs 3.1 and 3.3

Changes reflected the fact that some appointments to outside organisations were made by the Council and those relating to executive functions by the Leader.

(b) Paragraph 3.2

This concerned member appointments regarding allocation of places between the political groups, and allocation of places on outside organisations to Portfolio Holders where Cabinet functions were directly involved. It was proposed to delete this section.

(c) Paragraph 9.3 (c)

Additional wording had been added to this paragraph reflecting the Code of Conduct adopted by the Council and currently in operation. Previous reference to personal and prejudicial interests were replaced by references to disclosable pecuniary interests.

(d) Paragraph 12

This section had been updated taking account of changes in the Code of Conduct.

(e) Section 7

Section 7 of the Protocol dealt with insurance and indemnities. In summary, a member had liability cover from the authority for actions undertaken lawfully and in accordance with the Council's statutory duties.

(f) Section 10

This section of the protocol referred to reporting arrangements.

(g) Review of Council and Leader Appointed Representatives to Outside Bodies

Panel members received further views of Councillors appointed representatives on leisure centres, town centre partnerships and other bodies following the discussion at the last meeting. The Panel suggested some changes to the representations with a small number being discontinued.

It was agreed that this report should be brought direct to the Council without consideration at the Overview and Scrutiny Committee. The Committee Chairman would be asked to approve this under Overview and Scrutiny Procedure Rule 4 (j) on the grounds of urgency to agree the arrangements for appointing representatives before the Annual Council meeting.

RECOMMENDED:

(1) That the Review of Outside Organisations be recommended to Annual Council as follows:

(a) That the changes to the Protocol on Partnerships and External Organisations be recommended to the Council;

(b) That the revised list of external organisations to which the Council makes appointments be approved;

(c) That a recommended revised list of external organisations to which the Cabinet makes appointments be referred to the Leader of Council for decision.

55. LOCALISM ACT 2011 - EXECUTIVE CONSTITUTION

The Panel received a report from the Assistant to the Chief Executive regarding the Localism Act 2011 – Executive Constitution.

The Localism Act 2011 consolidated a number of previous statutory provisions regarding Local Authority Executives.

The amendments were to Article 7:

(a) Article 7.02 (Form and Composition of the Executive)

An amendment had been made for closer alignment to the Localism Act.

(b) Article 7.03 (Leader of Council)

The Localism Act had removed the arrangements by which Councillors could be suspended or disqualified following a complaint investigation. The only remaining disqualification related to bankruptcy and criminal proceedings leading to imprisonment.

The Act had also introduced a new option for the Council, namely specifying the term of office of the Leader. The 2007 required that the member continued to the end of their term as a Councillor unless they resigned, became disqualified or were the subject of a negative vote at a Council meeting.

(c) Article 7.04 (Deputy Leader)

It was now mandatory for the Leader of Council to appoint a Deputy Leader and the Act went on to deal with the question of removal of a Deputy Leader from office and the power of the Leader to appoint a replacement. These provisions had been added into this article.

(d) Article 7.05 (Deputy Leader – Powers to Act)

Revisions had been made to reflect what the Act said should happen if the Leader of Council was unable to act or if that office was vacant. In those circumstances, the Deputy Leader would assume responsibility.

(e) Article 7.06 (Leader and Deputy Leader unable to act)

A new section was added to reflect the Act's clarification of the situation where the Leader and Deputy Leader were unable to act or the office of Leader or Deputy Leader was vacant. The act stated that the executive itself must then step in and either carry out the Leader's functions collectively or appoint a member of the Executive to act in the Leader's place.

(f) Article 7.05 (Other Executive Members)

The same alterations had been made in this section in relation to disqualification as Councillors, some clarification had been included regarding the appointment of Executive members, making it clear that these were by the Leader of Council and could be for more than one term of office.

(g) Article 7.08 (Responsibility for Functions)

A new sentence had been added to Article 7.08 to include the Localism Act requirement that any function which was the responsibility of the Executive may not be discharged by the full Council.

The Panel endorsed the report, they were advised that it was possible for the report to be forwarded to Full Council, bypassing the Overview and Scrutiny Committee. The Assistant to the Chief Executive agreed to discuss this with the Chairman of the Overview and Scrutiny Committee to obtain permission.

RECOMMENDED:

That following consultation with the Chairman of the Overview and Scrutiny Committee a report be submitted to the Council recommending Article 7 (The Executive) of the Constitution be amended to reflect the requirements of the Localism Act 2011.

56. CONVENTION ON THE RELATIONSHIPS BETWEEN POLITICAL GROUPS AND COUNCILLORS WITH OFFICERS

The Panel received a report from the Assistant to the Chief Executive regarding the 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. This had not been reviewed for many years and the Management Board had asked for these conventions to be reviewed in the light of current experience.

The changes were as follows:

(a) Paragraph 2.1 (Entitlement to Information)

The wording of this paragraph had been amended to make reference to the Freedom of Information and Data Protection Acts which protected personal or confidential data.

(b) Paragraph 2.3 (Entitlement to Information)

A new sentence had been added to this paragraph emphasising that in situations where one political group had requested information it may be necessary for the

Director concerned to discuss and agree a timescale for releasing it to all groups on an even handed basis.

(c) Paragraphs 2.4 and 2.5 (New) (Entitlement to Information)

These two new paragraphs were designed to recognise the close working relationships between Cabinet members and Directors which were a necessary part of the executive system. They guided Portfolio Holders and Directors in acknowledging the rights of other Councillors to information.

(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. The current convention stated that Chairmen would always vote for the status quo. This was amended by referring to the need for Chairmen to take advice on whether a status quo applied in the particular decision concerned.

(f) Paragraph 6.2 (Relations with the Media)

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

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

This was a new paragraph designed to draw 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 rather than the Secretarial Bureau. Members wishing to secure typing services from the Council were advised to contact Democratic Services in the first instance, where arrangements would be made with the Business Process Team in Corporate Support Services.

Members expressed concern with the proposals, in particular Sections 2.3 dealing with the agreement of a timescale for the release by Service Director of information to all political groups, and Sections 2.4 and 2.5 dealing with the relationships between Cabinet members and service directors being compromised. It was therefore proposed that this report should be distributed to all members following submittal to Group Leaders, and then brought back to this Panel in the new municipal year. Officers agreed to circulate a draft report in May 2013 before issuing the Panel agenda for the June Panel meeting.

RESOLVED:

That the report regarding the Convention on the Relationships between Political Groups and Councillors with Officers be deferred to the June Panel meeting following consultation with group Leaders and members.

57. OFFICER EMPLOYMENT RULES

It was advised that this report would be deferred to the next Panel meeting as officers were awaiting Counsel's advice.

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

It was advised that the following reports were being referred to the next Overview and Scrutiny Committee on 9 April:

- (a) Housing Appeals and Review Panel – Terms of Reference; and
- (b) Localism Act 2011 – Executive Constitution.

Report on Protocol and external Organisations direct to Council. In addition, three other reports arising from the last Panel meeting would also be considered at the meeting on 9 April 2013.

59. FUTURE MEETINGS

It was noted that the next meeting of the Panel was on Tuesday 25 June at 7.00p.m. in Committee Room 1.

As this was the last panel meeting of the municipal year, Councillor D Stellan expressed his thanks to the Chairman, Vice Chairman, Panel members and officers for their work and support over the last year.

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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 J Philip

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Constitution and Member Services Standing Panel (Chairman – Cllr J Philip)

Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
(1) Review of Essex County Council Elections 2 May 2013	25 June 2013		25 June 2013; 24 September; 19 November' 14 January 2014; and 18 March
(2) Officer Employment Procedure Rules	25 June 2013		
(3) Process Review on Appointment of Vice Chairman of the Council	25 June 2013		
(4) Conventions regarding Relationships between Officers and Councillors	25 June 2013		
(5) Review of Licensing	19 November 2013		
(6) Petitions Scheme	19 November 2013		

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Report to the Constitution and Members Services Standing Scrutiny Panel

Date of meeting: 25 June 2013

Portfolio Holder: Leader (Deputy County Returning Officer/ Returning Officer's Report)

Subject: Elections – 2 May 2013

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 Elections held on 2 May 2013

County Council Elections and District Council By-Election

1. 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; and
Waltham Abbey

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

Turnout

3. Overall turnover was 25.07% varying between 20.70% in the Waltham Abbey Division and 33.11% in the Epping and Theydon Bois Division. Turnout for the District Council by-election was 20.50%.

4. The level of turnout was disappointing. In the days before the election and throughout polling day numerous complaints were received by telephone, social media and face to face at polling stations about the lack of available information about the candidates. Neither the Council nor the Returning Officer is able to publish candidates' manifestos and those complaining were referred to where they could find information, eg searching the Internet. A common response from electors was that they expected to receive leaflets through their letterboxes and they did not have the time or inclination to search for information.

Arrangements

5. A Project Plan and a Risk Register for the elections were prepared and updated on a regular basis from the beginning of the year.
6. 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. In order to comply with the direction it was necessary to submit monitoring returns by specified dates. The monitoring returns required answers to set questions but in addition the Commission specified that a sample of Returning Officers, including Epping Forest, should submit data/evidence to support the responses. All of the returns and documents requested were submitted in accordance with the specified times. The Commission did not raise any significant queries in relation to the submitted material and has subsequently confirmed that based on their analysis of the information submitted we met all the necessary standards.

Polling Stations

7. 80 established Polling Stations were provided in 72 different buildings on 2 May 2013. This required the appointment of 72 Presiding Officers and around 120 Poll Clerks. Sufficient numbers of staff were appointed including standby staff some of whom had to be called upon at short notice.
8. On election day, representations were made about some of the buildings.
9. At the Allnutts Institute in Allnutts Road, Epping there is a farm-type gate (wide enough for a tractor) which leads to a former allotments site. The gate is a heavy metal construction and is designed to be secured against some metals stays at ground level which have broken. Whilst the gate appears solid it would not act as a handrail if someone grabbed it after tripping. The gate would swing away from the path and take a person with it. Discussions will take place with the owners of the building about possible remedial works.
10. An elector in a wheelchair found it difficult to enter the polling station at the Hastingwood Village Hall. The entrance has been inspected and the problem is that there is a UPVC doorframe which has a raised sill at floor level of about one inch/one and a half inches. The doorway is quite narrow but is wide enough to accommodate a wheelchair. There is no warning of the raised sill and it is therefore also a potential hazard for the able-bodied. Discussions will take place with the owners of the building about potential improvements.
11. The Whitebridge Junior School in Loughton has two entrances, one in Greensted Road and one in Southern Drive. It is desirable to have both entrances open as the distance between the two for a pedestrian is significant. The Greensted Road entrance is regarded as the main entrance and adequate signage to the polling station is provided from that entrance. However, representations were received on polling day that there was inadequate signage from the Southern Drive entrance which resulted in some electors walking around the school looking for the polling station. When the matter was drawn to the attention of the Presiding Officer additional signage was provided and the need for this will be emphasised to the Presiding Officer at future elections.
12. A complaint was made to one Presiding Officer about the lack of a Notice of Poll inside the polling station. This has been the case for several elections since the Electoral Commission pointed out to Returning Officers that this notice is not listed in the legislation as being one for display in a polling station.

Postal Votes

13. The total number of postal vote packets issued was 8115. Only 4 packs failed to reach the electors in the post and had to be re-issued. 71% 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. 26 postal votes were handed in at polling stations. In the Council's post on the days immediately following polling day a total of 51 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.
14. 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 although automatic signature recognition did not work as well as in previous years which necessitated more being determined manually. Many of the signatures on the postal vote statements determined manually were clearly identical to the signatures held in the records and should have been accepted by the software. This issue has been taken up with the software providers. There was no evidence of any significant 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. There were a few cases rejected for mismatched signature and date of birth where it appeared that one member of the household had completed all of the postal votes for that household.
15. The Electoral Registration and Administration Act 2013 provides for regulations to be made which will require from next year, Electoral Registration Officers to inform electors, after a poll, that their postal vote identifiers have been rejected (unless fraud is suspected). This should help electors who submit their postal ballot packs in good faith to avoid their vote being rejected at future elections. The introduction of Individual Elector Registration should also assist.
16. 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 may request that the Electoral Registration Officer supplies them with the current or final version of the absent voting lists for a particular election. The intention being that they can use the lists to help them campaign. There is therefore no question of a breach of data protection. However, it was the wording of the candidate's literature to the elector to which the elector took exception. The literature stated that the candidate was aware of the elector's postal vote status from the list "published" by the Electoral Registration Officer and this was interpreted by the elector that the list had been published by the Electoral Registration Officer for anyone to see details of the elector's mode of voting. Although the wording of the address appears accurate, agents will 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.
17. There was an issue with two electors who in the past had received postal votes but had subsequently appointed a proxy for one election. As a result of doing so they had not realised until it was too late for the election on 2 May 2013 that they needed to reapply to have their postal vote status re-instated. They have now reapplied and been granted postal vote status again for future elections.

Ballot Papers

18. The proofs of all of the 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 no errors were found. As in previous years this was an excellent service bearing in mind the tight timescale for printing.
19. There were no reports from Polling Stations of printing errors on the papers and no ballot papers were rejected at the count for the want of an official mark. This suggests that the checks made before polling day were accurate.

Spoilt Papers

20. There was little evidence of spoilt ballot papers at the count. The majority of those rejected were because the elector had voted for more than one candidate or because the papers were unmarked or wholly void for uncertainty. In the County Council elections the highest number of papers rejected was 18 in the Waltham Abbey Division.
21. The number of ballot papers rejected in the District Council Waltham Abbey Honey Lane by-election was 40, all of which for being unmarked or wholly void for uncertainty. Many of these were probably as a result of there being only two candidates.

Verification and Counts

22. Verification and counting of ballot papers took place at Theydon Bois Village Hall immediately following the close of poll. This did not reflect the national scene where most County Returning Officers decided to count during the following day on 3 May. Counting on the following day was the preference expressed by us but did not find favour with the other Essex authorities who all advised the County Returning Officer that they preferred to count immediately after the close of poll. Despite staff being tired after a long day, both processes went very smoothly and we finished ahead of schedule, partly due to the low turnout. Comments about the count received from candidates and agents are summarised later in this report.

Police Liaison

23. Discussions were held with the Police prior the election and as in previous years the Police support was good although the agreed cover was compromised due to the need for Police officers to attend a large fire on the day at Matching Airfield. There were no instances requiring immediate Police presence outside of the regular visits. There was also Police support provided at the Count Centre. 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

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

Tellers

25. Unfortunately there were some issues with tellers which need to be addressed for the future.

26. Tellers at both the United Reformed Church, Lindsey Street, Epping and Pelly Court, Hemnall Street, Epping left heaps of poll cards on the floor of the areas they had occupied during the day. Fortunately the Presiding officers collected those poll cards at the close of poll and brought them back to the Civic Offices where they were shredded. At the Senior Citizens Clubroom, Oakwood Hill, Loughton a teller left unattended a box with a rosette and poll cards for the next teller. The Presiding Officer noticed the box and took it into the polling station for safe keeping pending the arrival of the next teller but was criticised for doing so by that teller.
27. The information sheet sent to election agents and candidates acting for themselves is:
 “If electors give tellers their poll cards, please **do not** leave the cards lying around, **do not** put them in any rubbish bins at the polling station - please give them to the Presiding Officer for safe destruction.”
28. Also at the Pelly Court polling station an elector complained about being asked by a teller for his details on the way into the polling station. The Electoral Commission guidance states that tellers can ask electors for their details either when they go in to vote or when they leave. However, this is guidance only, not law. After local consultation by the Returning Officer in 2011, the resounding local opinion was that tellers should continue with the practice of only approaching electors after they have voted and are leaving the station. It was felt by the majority of those consulted that by asking on the way in might be interpreted as confrontational or intimidating.
29. It appears that some agents and candidates are not briefing their tellers sufficiently about these aspects and future guidance will emphasise these points.

Feedback from Election Agents and Candidates

30. Election Agents were invited to express views on the running of the Elections and the Counts. Comments have also been received from some of the candidates.
31. A UKIP candidate and agent expressed thanks for the efficient conduct of the poll and the count.
32. An Independent candidate and agent thanked the Deputy County Returning Officer and his staff for their work on the election and at the count.
33. An LRA candidate thanked the Deputy County Returning Officer and his staff for the arrangements made in the Division in which he stood referring to the “flawless” set-up
34. At the conclusion of the count at Theydon Bois, the Chairman of the Council expressed kind words about the conduct of the elections and count.
35. The YPP candidate who stood in the Buckhurst Hill and Loughton South Division has asked if a form can be issued with the nomination pack in future for a party’s nominating officer to complete stating that the candidate is the official candidate of that party and that the party logo should appear on the ballot paper. This has not been an issue previously as all of the main political parties have their own style template which they use each year. However, in future a form will be produced and issued to appropriate parties with the nomination pack.
36. One of the Liberal Democrats’ agents advised that as in previous years the election was very well conducted with the various phases of the work carried out efficiently and professionally. In relation to polling stations he advised that tellers at the United Reformed Church in Epping had reported the need for better signage as there were other activities taking place served by the entrance. The Presiding Officer at

the station has stated that he was unaware of a problem and that the teller's concerns were not drawn to his attention on the day. The agent has also stated that he would have liked to have seen more importance given at the count to the piles of 50 votes being laid out so that candidates and agents could have better appreciated the build-up to the final result. He further drew attention to the distracting background noise during the announcement of results and the failure of winning candidates to identify themselves. It was not apparent to the Returning Officer or his deputies that the Senior Counters were doing anything different from previous years when laying out counted papers. However, this issue will be raised with Senior Counters when they are briefed in future. In relation to background noise announcements will continue to be made when necessary at the count and winning candidates will be asked to identify themselves.

Review of Procedures

37. A thorough evaluation has been undertaken of all of the processes outlined in the Project Plan taking account of feedback from agents etc.
38. A Project Team comprising the Deputy County Returning Officer and his three Deputies met regularly between January and May 2013 to ensure that the processes were undertaken at the appropriate times.
39. Sufficient resources were allocated to the election.
40. The levels 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. Directors were helpful in making officers available for all of the processes.
41. 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.
42. Training was provided for Presiding Officers and Senior Count staff.
43. Using established polling stations ensured that the buildings were suitable. As mentioned earlier, issues arose on polling day about a gate by the Allnutts Institute Polling Station and a door sill at the Hastingwood Village Hall and these will be discussed with the owners of the buildings with a view to ensuring that they are resolved before the next elections. Steps will also be taken to ensure that adequate signage is provided at both entrances to the Whitebridge Junior School.
44. Theydon Bois Village Hall again proved to be a good venue for the verification and count.
45. Electors were allocated to polling stations having regard to Electoral Commission guidance. Turnout was low and there were no instances of queuing for ballot papers.

46. An adequate level of police support was provided. A meeting was held with the Single Point of Contact (SPOC) officer and agreement reached on support. On the day it was not possible for the Police to deliver the agreed level of support due to the need for officers to attend a large fire in the District.
47. 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.
48. 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 with links to the County Council website.
49. 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.
50. 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.
51. All of the statutory timescales were met.
52. Throughout the election period the Elections Office was staffed for the handling of queries from electors, agents and candidates.

Lessons Learned

53. Broadly speaking there were no key issues arising at the May 2013 elections. Generally all practices were completed successfully and this is reflected in the comments made by appropriate stakeholders.
54. Discussions will take place with the software providers regarding the failure to recognise signatures on postal vote statements which were clearly the same as those held in the records.
55. There is a need to emphasise to agents the arrangements agreed locally for tellers and to request that they use appropriate wording in literature to postal voters in order to overcome the matters raised in this report.

Members' Views

56. Members are invited to express views on the running of the Elections held on 2 May 2013 which will also be taken into account for future elections.

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Report to the Constitution and Member Services Standing Scrutiny Panel



Date of meeting: 25 June 2013

Report of: Assistant to the Chief Executive

Subject: Employment Procedure Rules

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

Committee Secretary: Mark Jenkins (01992 564607)
Democratic Services Officer

Recommendations:

- (1) That, in accordance with the advice of Counsel the Staff Employment Procedure Rules (including the Operational Standing Orders for staff) be amended as set out in Appendix 1; and
- (2) That, subject to the consideration of these revisions, a report be submitted to the Overview and Scrutiny Committee and the Council recommending adoption of these various constitutional changes.

Report:

1. Introduction

- 1.1 On 14 February 2012 (Minute 117) the Council adopted new procedures for top management officer appointments within the Council. This followed a specially convened review by a Task and Finish Scrutiny Panel which explored concerns about the contractual arrangements for previous Chief Executives.
- 1.2 As part of this process, Counsel was instructed to give advice on the Council's Redundancy and Redeployment Policy and Procedure and also to carry out a review of the Constitution's Staff Employment Rules and Operational Standing Orders to ensure that all processes were consistent.

2. Staff Employment Procedure Rules

- 2.1 The current Staff Employment Procedure Rules derive from the Local Government Act 2000 and represent statutory advice from the Government. These rules are set out on pages M2-4 of the Constitution folder and are supplemented at pages M5-9 by the Operational Standing Orders for Staff.
- 2.2 These rules cover matters such as recruitment and appointment of staff, redundancies, dismissals and disciplinary action for all posts and in particular those at top management level, e.g., Chief Executive/Head of Paid Service, Deputy Chief Executive and Chief Officers and Deputy Chief Officers.

3. Counsel's Opinion

- 3.1 Counsel's advice drew attention to the need to review some aspects of the Staff

Employment Procedure Rules and Standing Orders and also responsibility for functions.

- 3.2 Counsel has advised that the Officer Employment Procedure Rules, although dealing with appointment and disciplinary action, do not cover dismissal. He points out that the latter provisions are set out in a separate appendix (page M5 – Operational Standing Orders – Staff) and recommends that those sections should be integrated into the rules with clarification in the text concerning dismissal by reason of redundancy.
- 3.3 Appendix 1 to this report shows the amended rules recommended by Counsel. Counsel's recommended changes also clarify the position of certain key post holders, or designated officers and politically restricted posts which are not subject to the normal redundancy policy. Certain designations (e.g. Head of Paid Service, Monitoring Officer and Chief Financial Officer and deputies to the latter two positions) are statutory in origin but are not substantive posts in themselves.
- 3.4 Appendix 2 shows the present version.
- 3.5 At Section 6 of the revised rules, an additional panel is proposed to deal with top management posts, which is akin to the Appointments Panel which dealt with the position of Chief Executive recently. This would need to be appointed by the Council as and when required.

4. Right of Objection to Appointments/Dismissal by the Executive

- 4.1 The Local Authorities (Standing Orders) Regulations 2001 put in place certain procedures which allow the Executive of a Council to object to a proposed appointment of a range of senior positions or for dismissal from those positions and requires the Council to determine whether or not any objection received is sound.
- 4.2 The Task and Finish Panel called for more clarity in the Staff Employment Procedure Rules as to the process to be adopted in allowing the Executive to object where appropriate. Those procedures are currently set out in the Operational Standing Orders – Staff and, on the basis of the advice of Counsel to integrate the two documents more closely, these have now been reproduced in new Sections 8 and 11 within the Procedure Rules document.

5. Operational Standing Orders – Staff

- 5.1 As a result of the changes made to the rules, the accompanying Standing Orders are much reduced in length and a revised version is set out in Appendix 1 to this report.

6. Next Steps

- 6.1 These various changes, if agreed, represent changes to the Constitution which require approval by the Overview and Scrutiny Committee before submission to the Council for adoption.

OFFICER EMPLOYMENT PROCEDURE RULES

CONTENTS

Rule

1. Definitions
2. Responsibility for Appointment, Dismissal and Disciplinary Action
3. Recruitment and Appointment – General Requirements
4. Recruitment of Chief Officers
5. Appointment of the Chief Executive
6. Appointment of other Chief Officers
7. Appointment of Assistants to Political Groups
8. Objection by the Executive – Appointment of Chief Officers
9. Disciplinary Action
10. Disciplinary Panels
11. Objection by the Executive – Dismissal of a Chief Officer
12. Redundancy Procedures

Appendix

- 1 Operational Standing Orders - Staff

OFFICER EMPLOYMENT PROCEDURE RULES

A. DEFINITIONS AND RESPONSIBILITIES

1. Definitions

In these rules:

- (a) "the 1989 Act" means the Local Government and Housing Act 1989;
- (b) "the 2000 Act" means the local Government Act 2000;
- (c) "Disciplinary Action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;
- (d) 'Chief Executive' means the most senior officer of the Council in terms of managerial status and may include any person designated as Head of Paid Service pursuant to s4 of the Local Government and Housing Act 1989 and Deputy Chief Executive shall be construed accordingly;
- (e) "Chief Financial Officer" means the individual who has responsibility for financial administration pursuant to and for the purposes of s151 of the Local Government Act 1972;
- (f) "Chief Officer" means
 - (i) Chief Executive, Deputy Chief Executive, Director of Corporate Support Services, Director of Finance and ICT, Director of Housing, Director of Planning and Economic Development, Director of Environment and Street Scene, Assistant to the Chief Executive;
 - (ii) Further for the purposes of these Rules alone the Chief Financial Officer and Monitoring Officer, Deputy Financial Officer and Deputy Monitoring Officer are included within the definition of Chief Officer;
 - (iii) Further this definition will also include any post which is subsequently created to these Rules and whose terms of appointment expressly state that these Rules will apply as if to a Chief Officer.
- (g) "Executive" and "Executive Leader" have the same meaning as in Part II of the 2000 Act;
- (h) "Member of Staff" means a person appointed to or holding a paid office or employment under the authority;
- (i) "Pro Rata Rules" mean the principles set out in s15 of the 1989 Act;
- (j) "Proper Officer" means an officer appointed by the authority for the purposes of the relevant provisions in these Rules; and
- (k) "The Rules" means the Officers Employment Rules.

2. Responsibility for Appointment, Dismissal and Disciplinary Action

- 2.1 Save as otherwise provided for by these Rules and subject to the exceptions in sub paragraphs 2.2 and 2.3 below, the function of appointment and dismissal of, and taking disciplinary action against, a Member of Staff of the authority must be discharged, on behalf of the authority, by the Chief Executive or by a Member of Staff nominated by him.
- 2.2. The exceptions referred to in sub paragraph 2.1 are as follows:
- (a) the Chief Officers of the Council as defined above; and
 - (b) any person appointed in pursuance of Section 9 of the 1989 Act (assistants for political groups).
- 2.3 Nothing in paragraph 2.2 above shall prevent a person from serving as a member on any panel, committee or sub-committee established by the authority to consider an appeal by:
- (a) another person against any decision relating to the appointment of that other person as a Member of Staff of the authority; or
 - (b) a Member of Staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that Member of Staff.

B. RECRUITMENT

3. Recruitment and Appointment – General Requirements

3.1 Declarations

3.1.1 The Council will draw up a statement requiring any candidate for appointment as a Member of Staff to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or Member of Staff of the Council; or of the partner of such persons.

3.1.2 No candidate so related to a councillor or a Member of Staff will be appointed without the authority of the relevant Chief Officer of the service to which that candidate has applied or a Member of Staff nominated by him/her for this purpose.

3.2 Seeking Support for Appointment

3.2.1 The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council.

3.2.2 No councillor will seek support for any person for any appointment with the Council.

3.2.3 The Council will disqualify any applicant who directly or indirectly seeks the support of any Member of Staff for any appointment with the Council save where the applicant is an existing Member of Staff and seeks a reference from another Member of Staff in support of such application.

3.2.4 The content of Rule 3.2 shall be included in any recruitment information.

4. Recruitment of Chief Officers

4.1. Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Members of Staff, the Council will:

(a) Draw up a statement specifying (i) the duties of the **Chief Officer role** concerned; and (ii) any qualifications or qualities to be sought in the person to be appointed;

(b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) Make arrangements for a copy of the statement mentioned in Rule 4.1 (a) to be sent to any person on request.

5. Appointment of Chief Executive

5.1 The full Council will approve the appointment of the Chief Executive following the recommendation of such an appointment by a panel of seven councillors allocated between political groups in accordance with the Pro Rata Rules who will interview applicants for this position. Such a panel shall include at least one Executive member.

5.2 At least one councillor appointed to such a panel is required to have undertaken recruitment and selection training before taking part in interviews.

5.3 The appointment panel will not seek the approval of the full council for the proposed appointment until it has complied with the procedure at Rule 8 below.

6. Appointment of other Chief Officers.

6.1 A panel of seven councillors allocated between political groups in accordance with the Pro Rata Rules will interview and, where authorised following the procedure referred to in Rule 8, appoint to these positions. Such a panel shall include at least one Executive member.

6.2 **All members appointed to such a panel are** required to have undertaken recruitment and selection training before taking part in interviews.

7. Appointments of Assistants to Political Groups

7.1 Appointments of assistants to a political group shall be made in accordance with the wishes of that political group.

8. Objection by the Executive – Appointment of Chief Officers

8.1 In relation to any proposed appointment for any Chief Officer post an offer of appointment should not be made until the Proper Officer has been notified of the name of the person that is proposed is to be offered such position and any other particulars which are considered to be relevant to the appointment and the Proper Officer has notified every member of the Executive of the authority of:

- (a) the name of the person to whom it is proposed to make the offer;
- (b) any other particulars relevant to the appointment which have been notified to the Proper Officer; and
- (c) the period within which any objection to the making of the offer is to be made by the Executive Leader on behalf of the executive to the Proper Officer; and

8.2 Upon such notification having been made then the appointment will only be offered if:

- (a) the Executive Leader has, within the period specified above notified the appropriate appointment panel or individual that neither he nor any other member of the Executive has any objection to the making of the offer;
- (b) the Proper Officer has notified the appropriate appointment panel, that no objection was received by him within that period from the Executive Leader; or
- (c) the relevant appointment panel is satisfied that any objection received from the Executive Leader within that period is not material or is not well founded.

C. DISCIPLINARY ACTION

9. Disciplinary Action

9.1 Suspension

9.1.1 Any Chief Officer may be suspended whilst an investigation takes place into alleged misconduct.

9.1.2 The Chief Executive shall have delegated authority to suspend a Chief Officer where, in his/her opinion the presence at work of the Chief Officer concerned compromises an investigation of any alleged misconduct and/or impairs the carrying out of the Council's functions, for a maximum period of 10 working days. Any decision to suspend any Chief Officer for a longer period shall be taken by a Panel of councillors comprising not less than seven Councillors allocated between political groups in accordance with the pro rata rules.

9.1.2 Any assistant to a political group may be suspended by the leader of that political group.

9.1.3 Any suspension will be on full pay and for a period of not more than two months save as provided for in 9.2.2 below and shall be kept under constant review.

9.2 Independent Person

9.2.1 No Disciplinary Action other than the suspension referred to in paragraph 9.1 above may be taken in respect of the Chief Executive, the Monitoring Officer or the Chief Financial Officer except in accordance with a recommendation in a report made by a designated independent person within the meaning of Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001.

9.2.2 Further, in respect of any period for which the Chief Executive, the Monitoring Officer or the Chief Financial Officer may be suspended, the independent person may terminate or extend any period of that suspension (including extending it beyond

two months should it appear to that independent person as being necessary) and vary the terms of any suspension as he or she sees fit.

9.2.3 The independent person may inspect any documents or have questions answered by any Member of Staff of the Council in connection with such investigation.

9.3 Councillors

9.3.1 Councillors will not be involved in the disciplinary action against any Member of Staff below Chief Officer level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, **through** the Council's disciplinary, capability and related procedures, as adopted from time to time or as otherwise provided for by these Rules.

9.3.2 **Other** Councillors may participate in such proceedings where there is a right of appeal to members in respect of disciplinary action.

10. Disciplinary Panels

10.1 Disciplinary Action short of dismissal in respect of the Chief Executive, Monitoring Officer and Chief Financial Officer may be made by a panel comprising not less than seven councillors allocated between political groups in accordance with the Pro Rata Rules and including at least one member of the Executive to consider the report on any disciplinary matters produced by the independent person referred to in paragraph 9.2.1 above and must be in accordance with any recommendation made in that report.

10.2 The full Council may approve the dismissal of the Chief Executive, Monitoring Officer and Chief Financial Officer following the recommendation of such a dismissal by the Panel referred to in 10.1 provided that

- (i) such dismissal is in accordance with any recommendation made in the report produced by the independent person referred to in paragraph 9.2.1 above; and
- (ii) the procedure referred to in paragraph 11 below has been complied with.

10.3 Disciplinary Action, including dismissal, in respect of any individuals in the positions of Chief Officers, other than the Chief Executive, Monitoring Officer and Chief Financial Officer, may be taken by a panel of seven councillors allocated between political groups in accordance with the Pro Rata Rules including at least one member of the Executive and provided that the procedure referred to in paragraph 11 below has been complied with.

10.4 Disciplinary Action, including dismissal, in respect of any assistants to political groups, may be taken by a panel made up of not less than three councillors from that political group (unless there are less than three councillors affiliated to that party when the panel should be made up of all councillors affiliated to that party).

11. Objection by the Executive - Dismissal

11.1 In relation to any proposed dismissal of an individual in a Chief Officer post notice of dismissal should not be given until the Proper Officer has been notified of the name

of the person that is proposed is to be dismissed and the reasons for the proposed dismissal and the Proper Officer has notified every member of the executive of the authority of:

- (a) the name of the person it is proposed to dismiss;
- (b) the reasons for the proposed dismissal
- (c) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the Proper Officer;

11.2 No notice of dismissal or recommendation for dismissal as the case may be shall be given until either -

- (a) the Executive Leader has, within the period specified above notified the panel proposing to dismiss that neither he nor any other member of the Executive has any objection to the proposed dismissal
- (b) the Proper Officer has notified the panel that no objection was received by him within that period from the Executive Leader; or
- (c) the relevant panel is satisfied that any objection received from the Executive Leader within that period is not material or is not well founded.

12. Redundancy Procedures

12.1 The Epping Forest District Council Redundancy and Redeployment Policy and Procedure does not apply to Chief Officers. However the principles referred to within that policy will be adhered to so far as is appropriate when considering a potential redundancy situation affecting any individuals who hold any of the above posts and whether to dismiss any such person. **The Epping Forest District Council Policy for Redundancy and/or Early Retirement shall apply in full to Chief Officers**

12.2 A panel of members comprising seven councillors allocated between political groups in accordance with Pro Rata Rules including at least one member of the Executive will consider whether any persons holding any post referred to in 12.1 above shall be made redundant when it appears there is a need to consider such matters ("the Redundancy Panel").

12.3 The Redundancy Panel will, in addition to any other steps that appear to them to be appropriate as referred to in the Redundancy and Redeployment Procedure, be responsible to ensure that:

- (a) Any individuals that may be affected by any decisions relating to redundancy are informed at an early stage of the fact that they may so be affected and the reasons for this. Thereafter any such individuals should be kept informed of relevant information pertaining to the redundancy decision making process as it continues.
- (b) Individuals are meaningfully consulted during the redundancy process and, in particular, sufficient information is given to them such as to enable them to understand why such redundancies are being considered and an opportunity is given to those individuals to comment on such information and make alternative proposals with a view to avoiding redundancy.

(c) That consideration is given to whether any alternative positions may be available to the affected individuals.

The Redundancy Panel shall ensure that notification is given to the Executive of any proposed decision to dismiss by reason of redundancy in accordance with paragraph 11 above. Such notification is to be made before the Redundancy Panel notifies the individual concerned that it is proposed to recommend to the Council to make that individual redundant in accordance with paragraph 12.5 below.

- 12.4 If the Redundancy Panel decides that a notice of redundancy should be issued to any individual then it should inform the individual concerned of its intention to recommend the Council to do so and inform that individual that they have a right to appeal and the Panel should set a reasonable period for the individual to make such an appeal.
- 12.5 If the individual does not appeal within the set timescale then the full Council will approve the dismissal of the individual concerned following the recommendation of the Redundancy Panel.
- 12.6 If the individual does appeal within the set timescale then a Redundancy Appeal Panel will be appointed which will consist of five councillors, drawn from political groups in accordance with Pro Rata Rules and including at least one member of the Executive, who will hear and adjudicate upon the appeal.
- 12.7 If the appeal is dismissed then the full Council will approve the dismissal of the individual concerned following the recommendation of the Redundancy Appeal Panel.

**OFFICER EMPLOYMENT
PROCEDURE RULES**

APPENDIX 1

OPERATIONAL STANDING ORDERS – STAFF

1. Management Board

The Management Board shall comprise the Chief Executive, Deputy Chief Executive and Service Directors. The team shall meet on a regular basis to consider matters of Council business and shall adopt a 'corporate' outlook on management matters.

2. Working Parties

The Management Board may appoint working parties of officers to examine and report to the team on any matter in respect of which the Council has powers and duties or which affects the District.

3. Canvassing of Members

Canvassing of members or officers of the Council – (i) by or on behalf of a candidate, whether directly or indirectly; (ii) by individual employees in regard to their terms and conditions of service except by way of application to a superior officer, is forbidden.

4. Relatives of Members or Officers

(1) Every person applying for an appointment in the service of the Council shall disclose in writing to the Chief Executive any known family relationship to any member or senior officer of the Council.

(2) The existence of any known family relationship between a member of the Council and a senior officer of the Council shall be notified in writing to the Chief Executive by each party to such relationship.

(3) For the purpose of this Standing Order "senior officer" means any officer of the Council in receipt of a salary in Principal Officer Range (SCP 49-53) related to the JNC Conditions for Chief Officers.

5. Interest of staff in contracts and other matters

(1) If it comes to the knowledge of an officer employed by the Council that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract in which he is himself a party), has been or is proposed to be entered into by the Council or any committee thereof, he shall as soon as practicable give notice in writing to the Chief Executive of the fact that he is interested therein.

(2) If it comes to the knowledge of a Service Director of the Council that he has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter which is the subject of consideration by the Council or a committee of the Council he shall at the meeting before consideration of the matter disclose (or cause to be disclosed) the fact and (if he is in attendance at the meeting) shall withdraw from the meeting whilst the matter is under consideration.

...

(3) For the purpose of this Standing Order an officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of Section 95 of the Local Government Act 1972 had he been a member of the Council. (A summary of the provisions of Sections 94 to 98 and 117(1) of the Local Government Act 1972 is attached as Appendix 2 to these Standing Orders).

(4) An officer of the Council shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.

OFFICER EMPLOYMENT PROCEDURE RULES

CONTENTS

Rule

1. Recruitment and Appointment
2. Recruitment of Head of Paid Service and Chief Officers
3. Appointment of Head of Paid Service
4. Appointment of Corporate Directors, Finance Director and Heads of Service
5. Other Appointments
6. Disciplinary Action
7. Operational Standing Orders (Appendix)

Officer Employment Procedure Rules

1. RECRUITMENT AND APPOINTMENT

(a) Declarations

(i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.

(ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking Support for Appointment

(i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

(ii) No Councillor will seek support for any person for any appointment with the Council.

2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

Where the Council proposes to appoint a Chief Executive (i.e. Head of Paid Service), a Corporate Director, Finance Director or Head of Service and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying: (i) the duties of the officer concerned; and (ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) make arrangements for a copy of the statement mentioned in Rule (1)(a) to be sent to any person on request.

3. APPOINTMENT OF HEAD OF PAID SERVICE

(a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Panel of Members comprising not less than five Councillors drawn from all political groups and including at least one member of the Executive.

(b) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the executive.

4. APPOINTMENT OF CORPORATE DIRECTORS, FINANCE DIRECTORS AND, HEADS OF SERVICE

(a) A Panel of 7 Members of the Council allocated between political groups in accordance with pro rata rules will interview and, where authorised, appoint Chief Officers. Such a Panel shall include at least 1 Cabinet member.

(b) Appointment of Assistant Heads of Service and below should be the responsibility of the Head of Paid Service or his/her nominee.

(c) An offer of employment as a Chief Officer or Deputy Officer shall only be made where no well-founded objection from any member of the executive has been received.

(d) Any member appointed to such a Panel is required to have undertaken recruitment and selection training before taking part in interviews.

5. OTHER APPOINTMENTS

(a) Officers of Assistant Heads of Service rank and below

Appointments of Assistant Head of Service level and below (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.

(b) Assistants to Political Groups

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. DISCIPLINARY ACTION

(a) Suspension

The Head of Paid Service, Monitoring Officer, Deputy Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

(b) Independent person

No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.

(c) Councillors will not be involved in the disciplinary action against any officer below Deputy Chief Officer except where such involvement is necessary for any

investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

7. DISMISSAL

Councillors will not be involved in the dismissal of any officer of Assistant Head of Service level or below except where such involvement is necessary for any investigation or inquiry into alleged misconduct through the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.

8. OPERATIONAL STANDING ORDERS

... Operational Standing Orders affecting staff are set out in the Appendix 1 to these Rules. These support the provisions of these rules.

**OFFICER EMPLOYMENT
PROCEDURE RULES**

APPENDIX 1

OPERATIONAL STANDING ORDERS – STAFF

1. Management Board

The Management Board shall comprise the Chief Executive as leader of the Board, the two Corporate Directors, and the Finance Director. The Head of Policy Unit shall act as Secretary to the Board. The team shall meet on a regular basis to consider matters of Council business and shall adopt a 'corporate' outlook on management matters.

2. Working Parties

The Management Board may appoint working parties of officers to examine and report to the team on any matter in respect of which the Council has powers and duties or which affects the District.

3. Canvassing of Members

Canvassing of members or officers of the Council – (i) by or on behalf of a candidate, whether directly or indirectly; (ii) by individual employees in regard to their terms and conditions of service except by way of application to a superior officer, is forbidden.

4. Relatives of Members or Officers

(1) Every person applying for an appointment in the service of the Council shall disclose in writing to the Chief Executive any known family relationship to any member or senior officer of the Council.

(2) The existence of any known family relationship between a member of the Council and a senior officer of the Council shall be notified in writing to the Chief Executive by each party to such relationship.

(3) For the purpose of this Standing Order "senior officer" means any officer of the Council in receipt of a salary in Principal Officer Range (SCP 49-53) related to the JNC Conditions for Chief Officers.

5. Interest of staff in contracts and other matters

(1) If it comes to the knowledge of an officer employed by the Council that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract in which he is himself a party), has been or is proposed to be entered into by the Council or any committee thereof, he shall as soon as practicable give notice in writing to the Chief Executive of the fact that he is interested therein.

(2) If it comes to the knowledge of a Head of Service of the Council that he has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter which is the subject of consideration by the Council or a committee of the Council he shall at the meeting before consideration of the matter disclose (or cause to be disclosed) the fact and (if he is in attendance at the meeting) shall withdraw from the meeting whilst the matter is under consideration.

(3) For the purpose of this Standing Order an officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of Section 95 of the Local Government Act 1972 had he been a member of the Council. (A summary of the provisions of Sections 94 to 98 and 117(1) of the Local Government Act 1972 is attached as Appendix 2 to these Standing Orders).

(4) An officer of the Council shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.

6. Appointment, Dismissal and Disciplinary Action Against Staff

(1) In this Standing Order -

"the 1989 Act" means the Local Government and Housing Act 1989; "the 2000 Act" means the local Government Act 2000; "disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001; "executive" and "executive leader" have the same meaning as in Part II of the 2000 Act; "member of staff" means a person appointed to or holding a paid office or employment under the authority; and "Proper Officer" means an officer appointed by the authority for the purposes of the provisions in this Part.

(2) General Authorisation for Appointing, Dismissal and Disciplinary Action

Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under Section 4(1) of the 1989 Act (designation and reports of Head of Paid Service) as the Head of the Authority's Paid Service or by an officer nominated by him.

(3) Exceptions to Paragraph (2)

Paragraph 2 shall not apply to the appointment or dismissal, of, or disciplinary action against -

- (a) the officer designated as the Head of the Authority's Paid Service;
- (b) a statutory Chief Officer within the meaning of Section 2(6) of the 1989 Act (politically restricted posts);
- (c) a non-statutory Chief Officer within the meaning of Section 2(7) of the 1989 Act;
- (d) a Deputy Chief Officer within the meaning of Section 2(8) of the 1989 Act; or

(e) a person appointed in pursuance of Section 9 of the 1989 Act (assistants for political groups).

(4) Appointment or Dismissal of Head of Paid Service and other Designated Postholders

(1) Where a Committee, Sub-Committee or Officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the Head of the Authority's Paid Service, the authority must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given to him.

(2) Where a Committee or a Sub-Committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3, at least one member of the executive must be a member of that Committee or Sub-Committee.

(5) Offers of Appointment

(1) In this paragraph, "appointor" means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, Sub-Committee or officer is discharging the function of appointment on behalf of the authority, that Committee, Sub-Committee or officer, as the case may be.

(2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointor until -

(a) the appointor has notified the Proper Officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;

(b) the Proper Officer has notified every member of the executive of the authority of -

(i) the name of the person to whom the appointor wishes to make the offer;

(ii) any other particulars relevant to the appointment which the appointor has notified to the Proper Officer; and

(iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the Proper Officer; and

(c) either -

(i) the executive leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the appointor that neither he nor any other member of the executive has any objection to the making of the offer;

(ii) the Proper Officer has notified the appointor that no objection was received by him within that period from the executive leader; or

(iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well founded.

(6) Dismissals

(1) In this paragraph, "dismissor" means, in relation to the dismissal of an officer of the authority, the authority or, where a Committee, Sub-Committee or another officer is discharging the function of dismissal on behalf of the authority, that Committee, Sub-Committee or other officer, as the case may be.

(2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until:

(a) the dismissor has notified the Proper Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;

(b) the Proper Officer has notified every member of the executive of the authority of:

(i) the name of the person who the dismissor wishes to dismiss;

(ii) any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer; and

(iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the Proper Officer; and

(c) either -

(i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he nor any other member of the executive has any objection to the dismissal:

(ii) the Proper Officer has notified the dismissor that no objection was received by him within that period from the executive leader; or

(iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

(7) Appeals

Nothing in paragraph 2 shall prevent a person from serving as a member of any Committee or Sub-Committee established by the authority to consider an appeal by:

(a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or

(b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

7. Disciplinary Action - Head of Paid Service, Monitoring Officer, Chief Financial Officer

(1) In Paragraph 2, "Chief Finance Officer", "Council Manager", "disciplinary action", "Head of the Authority's Paid Service" and "Monitoring Officer", have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 and "designated independent person" has the same meaning as in Regulation 7 of those Regulations.

(2) No disciplinary action in respect of the Head of the Authority's Paid Service (unless he is also a Council Manager of the authority), its Monitoring Officer or its Chief Finance Officer, except action described in Paragraph 3, may be taken by the authority, or by a Committee, a Sub-Committee, a Joint Committee on which the authority is represented or any other person acting on behalf of the authority, other than in accordance with a recommendation in a report made by a designated independent person under Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).

(3) The action mentioned in Paragraph 2 is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

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Report to Constitution and Members Services Scrutiny Standing Panel

SCRUTINY

Date of meeting: 25 June 2013

Subject: Vice Chairman of Council – Appointment Review



Officer contact for further information: Simon Hill Ext 4249

Committee Secretary: Mark Jenkins Ext 4607

Recommendations/Decisions Required:

To consider the scope of a review of the appointment process for the Vice Chairman of Council.

Report:

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

2. The currently agreed procedure resulted from the Council approving a motion in April 2007 (minute 97 – 24.4.2007) which forms the basis of a section from Article 5 of the Constitution as follows:

“Election of Chairman of the Council and Appointment of Vice-Chairman of Council

The individual elected to the office of Chairman of Epping Forest District Council shall be elected on merit, without regard to party affiliation.

The appointment of the Vice-Chairman of the Council shall also be on the basis of merit and without regard to party affiliation in accordance with the following provisions:

(a) Nominees for the office of Vice-Chairman of the Council should submit a nomination form signed by not less than 12 District Councillors drawn from at least two political groups

(b) Nominees for Vice-Chairman of the Council may be drawn from any political group or any independent member serving on the Council;

(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 and onward recommendation to the Annual Council meeting;

(d) It is expected that the person nominated under this article and appointed by the Council as Vice-Chairman of the Council shall normally become the Chairman of the following Council year;

(e) It shall be open to the Council to suspend the operation of the appointment process at any Annual Council meeting if this is in the best interests of the Council.

Such suspension shall, however, only be agreed if 65% of the Council membership support a motion to that effect.”

3. Members are asked to give guidance on the scope of the review of the constitutional requirement so that further work can be undertaken on the matter in time for reporting back to the Council.

Report to the Constitution and Member Services Standing Scrutiny Panel

Date of meeting: 25 June 2013



 Epping Forest District Council

Report of: I Willett (Assistant to the Chief Executive)

Subject: Convention on the Relationships between Political Groups and Councillors with Officers

Officer Contact for further information: I Willett (01992 564243)
Assistant to the Chief Executive
Email: iwillett@eppingforestdc.gov.uk

Committee Secretary: Mark Jenkins (01992 564607)
Democratic Services Officer
Email: mjenkins@eppingforestdc.gov.uk

Recommendations:

- (1) To consider the results of consultation with Councillors through the Council Bulletin, including the comments made about e mail and related officer/member interactions;
- (2) To consider further observations from Management Board concerning section 2 of the Conventions relating to confidentiality; and
- (3) To agree revised conventions for submission to the Overview & Scrutiny Committee and the Council for adoption.

Report

1. Introduction

1.1 The Council's Constitution contains conventions regarding the management of relationships between political groups, Councillors and officers. This is a document which has not been reviewed for many years and originated from a period in the Council's history when there was no overall political control.

1.2 The Management Board felt that these conventions should be reviewed in the light of current experience. A revised set of conventions is set out in Appendix 1 to this report with the changes being proposed shown in bold type with underlining. The report and the proposed changes were considered at the last meeting of this Panel but were deferred pending consultation with Councillors via the Council Bulletin. The comments received are set out in Appendix 2.

1.3 A copy of the present protocol is attached as Appendix 3

2. Changes Proposed

2.1 Set out below is a commentary on the changes shown in Appendix 1 to this report. For the purposes of this report minor drafting changes have been omitted from the commentary.

2.2 The commentary is set out below:

(a) Entitlement to Information (Paragraphs 2.1 – 2.5)

The revised wording of these paragraphs remains as presented at the last meeting.

(b) Paragraph 2.1

This paragraph has been amended to make reference to the Freedom of Information and Data Protection Acts which will protect personal or confidential data.

(c) Paragraphs 2.3, 2.4 and 2.5

The current wording was submitted at the last meeting and provoked some controversy about the position of Directors in relation to portfolio holders, where information was requested by minority political groups or individual Councillors .

Management Board has looked at this issue again in the light of the Panel's comments. Directors concluded that perhaps these paragraphs have attempted to put in place a system which may be unworkable in practice. A more simple approach is recommended, namely that all requests for requests for the supply of information should be treated as be confidential by Directors, irrespective of which political group is involved. This principle is less open to interpretation. Management Board also suggests that these requests should be directed to the Chief Executive, Directors or the relevant Assistant Directors.

If the Panel accepts this view, these paragraphs will require amendment

(d) Paragraph 4.3 (Briefing of Political Groups)

This is a new paragraph which reflects current practice in relation to Group Leaders' meetings which have recently been revived. Previously these were chaired on a rota between each political group but current practice is for the Leader of the largest political group to assume this role;

(e) Paragraph 5.2 (Casting Vote)

This paragraph has been extended to provide more advice to Chairmen regarding the issue of the second or casting vote. The current convention states that Chairmen will always vote for the status quo. This has been amended by referring to the need for Chairmen to take advice on whether a status quo does apply in the particular decision concerned and some factors to take into account have been listed.

These include whether a decision is necessary at that particular moment and whether there is a reasonable timescale in which the issue can be debated again. The new wording also deals with situations where effectively there is no status quo relating in particular to regulatory decisions such as planning, licensing and appeals of various kinds. The advice contained in the paragraph is 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 is a small addition to this paragraph to clarify the circumstances where members may speak directly to the media on any given issue. This is intended to cover situations where members wish to make political comments rather than statements of Council policy;

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

This is a new paragraph designed to draw attention to the special requirements for Council publicity during election periods. Appendix 2 to this report sets out separate guidance which has already been given to members and officers on this subject and it was felt useful to append this to the new conventions;

(h) Paragraph 8.1 (Facilities for Members)

The wording of this paragraph has been slightly amended to refer to Democratic Services rather than the Secretarial Bureau. Members wishing to secure typing services from the Council are advised to contact Democratic Services in the first instance and staff will then make arrangements with the Business Process Team in Corporate Support Services.

3. Results of Consultation

3.1 One representation has been received from a member of the Council which deals with e mail and staff/member interactions in meetings and elsewhere. The Panel may like to consider whether an additional section should added to the protocol.

3.2 One other political group approached the Assistant to the Chief Executive an written representations are awaited. This discussion also concerned the available to information to Councillors in confidence.

4.. Next Steps

4.1 The Panel is asked to consider the proposed changes to the conventions in the light of the feedback received and consider recommendations to the Overview and Scrutiny Committee and the Council.

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1. INTRODUCTION

1.1 The formal business of the Council is regulated by the Constitution and various supplementary guidance. The conventions set out in this document are for guidance of the members of the Council and **Directors** and are aimed at supplementing those rules and guidance.

2. ENTITLEMENT TO INFORMATION

2.1 Any member of the Council may ask the appropriate Director for written factual information about a Directorate (or part thereof) or service. Such requests will be met, subject to any legal requirements (including the Freedom of Information and Data Protection Acts).

2.2 Where a Director on his own initiative provides information to any Member of a political group, the information will **also** be supplied to the other **Groups** through their Group Leaders unless it is of a routine or minor nature.

2.3 Where a request for information by a Group Leader, Deputy Group Leader or Spokesperson on behalf of a political group is made to a **Director**, such information shall, so far as is reasonable, remain confidential to the Group in question. **In the event that the supply of information to one political group only may give that group an advantage, the Director concerned will discuss and agree a timescale for its release to all groups.**

2.4 All Councillors are asked to respect the close working relationships between Cabinet members and Directors. The operation of Executive arrangements inevitably results in close collaboration between Directors and the Portfolio Holder(s) with responsibility for their services. Those working arrangements should not be used to deny other members of the Council access to information which they require. Equally, such requests may create a sensitive situation for Directors. Councillors need to be aware that Directors should not be placed in a position of having supplied information to a Councillor which might be used politically with the Cabinet member.

2.5 A particular case in point is questions without notice to Cabinet members at Council meetings. Members seeking information for the purposes of such questions must bear in mind that it may be necessary to share the information so that the role of the Director is not compromised. Directors must be open with Councillors if this situation arises and agree at the outset the confidentiality which applies in supplying the information and the timing of any disclosure to the Portfolio Holder. By the same token, Portfolio Holders and Directors will need to acknowledge rights of non Cabinet members to information which set out in the local government law and this Constitution.

3. BRIEFINGS ON COUNCIL BUSINESS

3.1 Formal briefings may be arranged for meetings to discuss business to be transacted at meetings. Member representatives of the remaining political groups **may** be invited to attend briefings on Council business with the Leader (or any other Cabinet member) or the Chairman and Vice-Chairman of any other body.

Independent councillors (i.e. those not affiliated to any political group) shall be entitled to attend briefings in respect of those meetings of which they are members.

3.2 Briefings for meetings will deal with (a) procedural matters (b) up-dating of information contained in agenda items by officers and (c) any questions from political groups.

3.3 All briefings will be held at a mutually convenient time, usually on the day of the meeting in question and where possible will be published on the weekly calendar in the Council Bulletin. The actual time will depend on the starting time of meeting proper. This arrangement will not be amended without the approval of all political groups.

3.4 In the case of the Cabinet members or Chairmen and Vice-Chairmen, arrangements may be made by the Chief Executive or appropriate Director for separate briefings of a more general character where this is necessary to familiarise members with current Council policies. Discretion and judgement will however, be used by Directors and Chairmen and Vice-Chairmen so as to ensure that information is not sought or given which might give any political group an advantage.

4. BRIEFING OF POLITICAL GROUPS

4.1 Officers of the Council will not attend meetings of political groups on the Council.

4.2 Meetings of group leaders may be held. Such meetings will have no executive powers but will be authorised to meet with the Chief Executive on an informal basis to discuss business to be considered by the Council.

4.3 Group Leaders' meetings shall have formal agenda and minutes and shall be chaired by the Leader of the largest political group if present.

5. MEETING PRACTICE

5.1 Role of Chairman

The Chairman of the Council, the Leader **of the Cabinet or the Chairman** of any Committee, Sub-Committee or **Panel/Working Group** shall ensure that there is a reasonable opportunity for debate and that there is effective despatch of Council business. The Chairman shall ensure that every motion which is properly proposed and seconded is put to the vote.

5.2 Casting Vote

In circumstances where a second or casting vote may be required, the Chairman shall consider whether to make a second or casting vote by taking advice on whether the decision is necessary and whether there will be a further opportunity to debate the issue concerned within a reasonable timescale. The Chairman may decide, dependant on that advice, not to make a casting vote or if one is cast, to vote according to the status quo. However, in some cases there is no status quo (e.g. quasi judicial decisions concerning planning, licensing and appeals of various kinds) and in those circumstances the Chairman shall vote in accordance with their judgement of the public interest. Chairmen will acknowledge at all times the requirement under the Constitution to signify whether he or she intends to vote in the first vote on any matter before a meeting.

5.3 Respect for the Chair and Behaviour

Group Leaders will do everything possible to ensure that members of their groups are aware of the rules of debate and proper standards of behaviour at all meetings.

5.4 Group Representatives – District Development Control Committee/Area Plans Sub Committees

Immediately following the Annual Council meeting, all political groups will specify their nominated representatives on these Committees and Sub Committees. The role of the Group representative shall be to act as spokesman for their group in connection with those meetings.

5.5 Seating Arrangements – Council and Committee Meetings

Seating in the Council Chamber shall be agreed between the political groups.

5.6 Committee Minutes

Draft minutes will be cleared with the appropriate Chairman.

6. RELATIONS WITH THE MEDIA

6.1 Official media statements will be issued on behalf of the District Council, a Portfolio Holder, an Overview and Scrutiny or other Committee Chairman. Such statements may be prepared in consultation with appropriate Directors but must be approved by the quoted Members before issue. **Quoted members will also be consulted on statements issued within the broader context of a proactive media release and in response media enquiries.** Statements issued through the Public Relations and Marketing Officer (including quoted comments by members) must reflect the nature of decisions or Council policy and exclude 'political' comment.

6.2 Members may speak directly to the media on any given issue (subject to legal constraints such as the Data Protection Act) **in order to express personal or political points of view.**

6.3 Political Groups may issue their own press releases either through group leaders or group representatives. These will be solely the province of the political group concerned and will not involve officer input except in so far as a group wish to check factual information. Press statements arising from Council business and issued in a party capacity by a Leader or Group Representative must be careful to differentiate between the Council's policy and the views of the group concerned.

6.4 The Chairman and Vice-Chairman of the Council have a special role within the authority by virtue of their civic responsibilities. To reflect this role, they will receive special support from relevant officers in carrying out those duties.

6.5 Political groups and individual councillors shall bear in mind the special rules which apply to Council publicity during election periods and shall bear in mind the guidance set out in Appendix 2 to this report .

7. APPOINTMENT OF REPRESENTATIVES

7.1 The appointment of representatives to any outside body of a permanent nature or involving regular attendance will be determined by the Council in accordance with Council Procedure Rules.

8. FACILITIES FOR MEMBERS

8.1 Word processing facilities are available in accordance with Council policy for member correspondence, on application to **Democratic Services**. Typing for the Chairman and Vice-Chairman of the Council is provided by the Democratic Services .

8.2 Photocopying facilities are available in the Members' Room, free of charge.

9. REVIEW OF CONVENTIONS

9.1 The conventions set out in this document will be reviewed from time to time. The Chief Executive will also initiate a special review at any time if required by a change in the political balance on the Council or on the request of any of the political groups.

RESULTS OF CONSULTATION

1. Councillor A

“There are two matters I wish to raise about this Protocol and for consideration.

First, as a fairly new District Councillor (May 2012), I have found it difficult to get to know some of the officers with whom I am required to work with as an elected member.

I have been conscious that, on some occasions, officers may not have been aware of my role. I think that the Protocol could usefully give advice that staff should engage with new members on a positive basis. Managers should also explain to their staff the importance of a friendly introduction. Equally, advice to new Councillors to introduce themselves to staff with whom they come into contact would also be useful, including the need to wear appropriate identification at all times. No one at any level should be exempt from what I consider is good business practice.

My second point is about e-mails. A wide range of salutations and styles seem to be used when dealing with Councillors through this medium. In my experience, these range from the familiar to the very formal or even rather curt. I think some standards should be laid down in the Protocol to give guidance for the future. I think the fact that Councillors are elected as such should always be acknowledged.

I have also received various out of office responses which on occasions does not reflect the standard I would expect. On a positive note I appreciate the opportunity to raise these comments which are written in the spirit to improve communication for both parties.”

2. Other Representations

If any further comments are received, these will be tabled at the meeting or circulated in advance.

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CONVENTIONS RELATING TO THE MANAGEMENT OF THE DISTRICT COUNCIL AND ON THE RELATIONSHIPS BETWEEN POLITICAL GROUPS AND OFFICERS

1. INTRODUCTION

- 1.1 The formal business of the Council is regulated by the Constitution and various supplementary guidance. The conventions set out in this document are for guidance of the members of the Council and Heads of Service and are aimed at supplementing the rules set out in Standing Orders consequent to the electoral balance between the political groups arising from the elections in May 1994.

2. ENTITLEMENT TO INFORMATION

- 2.1 Any member of the Council may ask the appropriate Head of Service for written factual information about a department or service. Such requests will be met, subject to any legal requirements and to the amount of work involved in preparing that information not being unreasonably time consuming.
- 2.2 Where a Head of Service on his own initiative provides information to any representative of a political group, that information will be supplied to the other parties through their spokesman unless it is of a routine or minor nature.
- 2.3 Where a request for information by a Group Leader, Deputy Group Leader or Spokesperson on behalf of a political group is made to a Head of Service, such information shall, so far as is reasonable, remain confidential to the Group in question.

3. BRIEFING ON COUNCIL BUSINESS

- 3.1 Formal briefings may be arranged for meetings where the business is to be transacted. Member representatives of the remaining political groups will be invited to attend briefings with the Leader or any other Cabinet member or Chairman and Vice-Chairman of any other body. Independent councillors (i.e. those not affiliated to any political group) shall be entitled to attend briefings in respect of those meetings of which they are members.
- 3.2 Briefings for meetings will (a) deal with procedural matters (b) up-date information contained in agenda items and (c) answer factual questions from political groups.
- 3.3 All briefings will be held at 6.30 p.m. on the day of the meeting in question. This arrangement will not be amended without the approval of all political groups.
- 3.4 In the case of the Cabinet members or Chairman and Vice-Chairman, arrangements may be made by the Chief Executive or appropriate Head of Service for separate briefings of a more general character where this is necessary to familiarise members with current Council policies. Discretion and judgement will however, be used by Heads of Service and Chairmen and Vice-Chairmen so as to ensure that information is not sought or given which might give any political group an advantage.

4. BRIEFING OF POLITICAL GROUPS

- 4.1 Officers of the Council will not attend meetings of political groups on the Council.
- 4.2 Meetings of group leaders may be held. Such meetings will have no executive powers but will be authorised to meet with the Chief Executive and relevant Heads of Service on an informal basis to discuss business to be considered by the Council.
- 4.3 Group Leaders meetings shall have formal agenda and minutes and shall be chaired by the leader of each political group on an alphabetical rota by surname. Deputy group leaders shall also be entitled to attend these meetings.

5. MEETING PRACTICE

5.1 Role of Chairman

The Chairman of the Council, the Cabinet and of any Committee, Sub-Committee or Working Group shall ensure that there is a reasonable opportunity for debate and that there is effective despatch of Council business. The Chairman shall ensure that every motion which is properly proposed and seconded is put to the vote.

5.2 Casting Vote

In circumstances where the second or casting vote is required to be given the Chairman of any meeting shall, if at all possible, cast that vote in accordance with the status quo. Chairmen will acknowledge at all times the requirement under the Constitution to signify that he or she intends to vote in the first round of such voting.

5.3 Respect for the Chair and Behaviour

Group Leaders will do everything possible to ensure that members of their groups are aware of the rules of debate and proper standards of behaviour at all meetings.

5.4 Group Representatives

Immediately following the Annual Council meeting, all political groups will specify their nominated representatives on the committees and sub-committees of the Council. The role of the Group representative shall be to act as spokesman for their group in connection with those meetings.

5.5 Seating Arrangements – Council and Committee Meetings

Seating in the Council Chamber shall be agreed between the political groups.

5.6 Committee Minutes

Draft minutes will be cleared with the appropriate Chairmen.

6. RELATIONS WITH THE MEDIA

- 6.1 Official media statements will be issued on behalf of the District Council, a Portfolio Holder, an Overview and Scrutiny or other Committee Chairman by the Public Relations and Marketing Officer. Statements may be prepared in consultation with appropriate Heads of Service but must be approved by quoted Members before issue. Statements issued through the Public Relations and Marketing Officer (including quoted comments by members) must reflect the nature of decisions or Council policy and exclude 'Political' comment. Members may speak directly to the media on any given issue (subject to legal constraints such as the Data Protection Act) to express personal or political points of view.
- 6.2 Political Groups may issue their own press releases either through group leaders or group representatives. These will be solely the province of the political group concerned and will not involve officer input except in so far as a group wish to check factual information. Press statements arising from Council business and issued in a party capacity by a Leader or Group Representative must be careful to differentiate between the Council's policy and the views of the group concerned.
- 6.3 The Chairman and Vice-Chairman of the Council have a special role within the authority by virtue of their civic responsibilities. To reflect this role, they will receive special support from relevant officers in carrying out those duties.

7. APPOINTMENT OF REPRESENTATIVES

- 7.1 The appointment of representatives to any outside body of a permanent nature or involving regular attendance will be determined by the Council in accordance with Council procedure rules.

8. FACILITIES FOR MEMBERS

- 8.1 Word processing facilities are available in accordance with Council policy for member correspondence through from Legal and Administration Services, on application to the Secretarial Bureau. Typing for the Chairman and Vice-Chairman of the Council is provided by the Democratic Services Section.
- 8.2 Photocopying facilities are available in the Members' Room, free of charge.

9. REVIEW OF CONVENTIONS

- 9.1 The conventions set out in this document will be reviewed from time to time. The Chief Executive will also initiate a special review at any time if required by a change in the political balance on the Council or on the request of any of the political groups.

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