

**EPPING FOREST DISTRICT COUNCIL  
NOTES OF A MEETING OF CONSTITUTION AND MEMBERS SERVICES SCRUTINY  
PANEL  
HELD ON MONDAY, 16 FEBRUARY 2015  
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING  
AT 7.00 - 9.55 PM**

**Members Present:** Mrs M Sartin (Chairman), D Dorrell, Mrs J Lea, Mrs M McEwen, J Philip, Mrs C P Pond, C C Pond, D Stallan, Mrs J H Whitehouse and G Waller

**Other members present:**

**Apologies for Absence:** A Watts and S Weston

**Officers Present** S G Hill (Assistant Director (Governance & Performance Management)), S Tautz (Democratic Services Manager) and M Jenkins (Democratic Services Assistant)

**25. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)**

It was noted that Councillor C C Pond was substituting for Councillor S Weston.

**26. NOTES OF THE LAST MEETING**

**RESOLVED:**

That the notes of the last meeting of the Panel held on 27 November 2014 be agreed.

**27. DECLARATION OF INTERESTS**

There were no declarations of interest made pursuant to the Member's Code of Conduct.

**28. TERMS OF REFERENCE / WORK PROGRAMME**

**(a) Terms of Reference**

The Panel's Terms of Reference were noted.

**(b) Work Programme**

**(i) Item 7 Constitution – Thresholds for Leases and Licences**

It was advised that this item would be submitted to a later meeting.

**(ii) Item 11 Review of Operation of the Complaints Panel**

This report concerned reducing the number of steps taken in the processing of complaints. A report would be submitted to the next Panel meeting.

**(c) Changes to the Overview and Scrutiny Panel Structure**

It was advised that the current scheme of 5 scrutiny panels would be reduced to 4 select committees reflecting the new directorate structure of the authority. This particular panel would become a Working Group reporting directly to Council. The Panel was advised that the review panel was recommending the continuity of membership from this Panel for 2015/16 and the Remuneration Panel was examining the special responsibilities allowances that could be made.

## **29. REVIEW OF OPERATION OF PLANNING COMMITTEES AND TERMS OF REFERENCE**

The Panel received a report regarding review of Operation of Planning Committees and terms of reference from the Assistant Director of (Performance Management) Governance.

The Overview and Scrutiny Committee, at its meeting on 16 September 2014, referred a PICK form request to the Planning Scrutiny Panel.

The Panel supported the Planning Scrutiny Panel's recommendation on the criteria for referring applications to the DDCC subject to the inclusion of "large scale development schemes" to the items that would go directly to the DDCC.

Note:

(Recorded in accordance with Council Procedure Rule 17.7 that Councillor C C Pond voted against this recommendation).

The Panel supported changing the name of the District Development Control Committee to District Development Management Committee to reflect new directorate section titles.

### **RECOMMENDED:**

That a report be made to the Overview and Scrutiny Committee and to Council recommending:

- (1) The adoption of the revised draft Article on the operation of and arrangements for planning committees;
- (2) The inclusion of the provisions within the Council's Constitution with immediate effect subject to a review during 2016 if necessary;
- (3) The approval of consequential amendments to the Constitution by the Monitoring Officer including the removal of old provisions and areas of duplication; and
- (4) The name of the current District Development Control Committee be changed to District Development Management Committee.

## **30. CONSTITUTION REVIEW - COUNCIL PROCEDURAL RULES**

The Panel received a report regarding the Constitution Review – Council Procedural Rules from the Assistant Director (Performance Management) Governance.

Procedural rules in the Constitution were spread across a number of different parts with some non-executive bodies having rules within procedure rules and operational standing orders. The Panel supported a single “rules” section containing all of the rules across the Constitution in one place. The report appendix used a table format which indicated where each Council body applied, Council, the Executive, Overview and Scrutiny and other non-executive bodies.

The Panel made progress with the procedure rules but felt that they should be submitted to the next Panel meeting in early March with amendments based on the discussion made that evening and further suggested amendments.

**RESOLVED:**

That the Council Procedural Rules be considered further at the next Panel meeting.

**31. CHAIRMAN'S CASTING VOTE**

The Panel received a report regarding the Chairman's Casting Vote from the Assistant Director (Performance Management) of Governance.

At the last Panel meeting Members briefly discussed the current provisions for the application of the Chairman's casting vote. The Panel asked officers to review the wording and check examples from other authorities, it was subsequently found that no similar rules could be found in other council constitutions.

The Panel proposed that the Government's advise issued in 2000 regarding situations where there was an equality of votes for and against, the Chairman should not be restricted on how they voted.

**RECOMMENDED:**

That the Government advice from 2000 regarding the Chairman's Casting Vote should be recommended for approval, as follows:

“If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.”

**32. MINORITY REFERENCES - APPLICATION OF NON-EXECUTIVE OPERATIONAL STANDING ORDER 13**

The Panel received a report regarding Minority Reference – Application of Non-Executive Operational Standing Order 13 from the Assistant Director (Performance Management) Governance.

The Minority Reference rules provided that a quarter of members present, or four Members of a planning committee, could stop action on any matter subject to it being considered by a higher authority such as Council or in the case of subordinate committees, a parent committee. The rules applied to all non-executive committees. It was advised that officers had not found another example of these provisions in a Council constitution. However, this rule had only been used for referring matters from planning sub-committee to the DDCC.

The Chairman allowed a representation from Councillor B Surtees to be tabled regarding minority references at planning sub-committees. He was concerned that:

- (a) There was public misunderstanding of the rule;
- (b) The sub-committee's authority was undermined;
- (c) The use of minority references frequently led to original decisions being reversed at DDCC, which seemed like a small group of Councillors exercising a right of referral to a higher authority;
- (d) This mechanism may have seemed undemocratic, allowing political groups with at least 4 members to force a course of action unavailable to smaller groups.

The Panel supported adding the words "immediately after a vote has been taken" should be added to paragraph 13 (1) after "to require."

Councillor C C Pond proposed that the rules define the following numbers of Members able to make a minority reference per sub-committee:

- (i) Area Plans West – 4;
- (ii) Area Plans East – 5; and
- (iii) Area Plans South – 6

The Panel did not support the proposal.

Note:

(Recorded in accordance with Council Procedure Rule 17.5 "Right to Require Individual Vote to be Recorded" that Councillor C C Pond voted in favour of the proposal).

**RECOMMENDED:**

- (1) That in regard to Standing Order 13 Minority References Paragraph (1) the words "immediately after the vote has been taken" be added following "to require."

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

The next Overview and Scrutiny Committee would not be meeting until 23 March 2015.

**34. FUTURE MEETINGS**

The next Panel meeting would be held on Tuesday 3 March 2015 at 7.00p.m. in Committee Room 1.