

Report to the Council

Committee: Overview and Scrutiny **Date:** 17 February 2009
Chairman: Councillor R Morgan **Item:** 16

1. CIVIC CEREMONIAL FUNCTION – REVIEW 2008

Recommending:

(1) That the following Protocols be incorporated into Article 5 of the Constitution, namely:

(i) the appointment of the Vice Chairman of Council; and

(ii) the role of the Chairman and Vice Chairman; and

... **(2) That the Council adopt a revised Constitution Article 5 (attached at Annex 1), incorporating changes suggested by the review.**

1. We have considered a review of the Civic & Ceremonial function of the authority. The Review took account of views from past Chairmen of Council and practice in other local authorities. We have also looked at the references to the role of the Chairman contained within the Council's Constitution. We are recommending changes to Article 5 of the existing Constitution.

2. Contained within the Council's Constitution are three main documents relating to the Chairman/Vice Chairman:

(a) Article 5 (pages B10 to B12) covers the Chairing of the Council;

(b) Protocol on the Role of the Chairman and Vice Chairman (pages S5 to S7) which covers much of the same ground as Article 5;

(c) Protocol for the Election of the Vice Chairman of the Council (page S4 as recently amended);

3. The two protocols largely reproduce the text contained within Article 5 of the Constitution. Having reviewed these we are recommending that, as a tidying up exercise, the texts are brought together into one document in the main article. We are additionally suggesting a minor change to section 5.02 (d) to cover the eventuality that a Vice Chairman cannot become the Chairman. An example might be failure to be re-elected. The suggested text is attached at Annex 1 to this report with proposed changes shown underlined. The two existing protocols can then be deleted from the Constitution.

4. Additionally, the Government has recently published its white paper response to the report of the Councillor's Commission. This response signals the intention of the Government to place a statutory duty on Local Authorities to promote democracy. This is in addition to their expectation of increased electoral participation. It is suggested that the

Chairman, as the Civic Head of the Authority, is in a unique position to undertake this role as they already have the overall responsibility for promoting public involvement in the Council's work. This would also have the effect of differentiating the Leader's role in political leadership/management of the Council from that of the Civic Head. We have suggested wording in the revised Article 5 at paragraph 5.03 (d) to cover this aspect.

5. We recommend as set out at the commencement of this report.

Proposed Changes are shown underlined

ARTICLE 5 - CHAIRING THE COUNCIL

5.01 Introduction

This article sets out the role, responsibilities and duties of the Chairman of Council. The role, responsibilities and duties fall to the Vice-Chairman in the absence of the Chairman.

5.02 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;

(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.

5.03 Overall Responsibilities

The Chairman and Vice-Chairman will be elected by the Council annually. Set out below are the overall responsibilities. It will be noted that these fall into two categories i.e. 'Chairing the Council meeting' and 'Civic/Ceremonial'. Further information on these two roles is set out in 5.04 - 5.06.

(a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;

- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and at which members who are not on the Executive or hold Committee Chairmanship are able to hold the Executive and Committee Chairmen to account;
- (d) to promote public involvement and local democratic engagement in the Council's activities;
- (e) to uphold the Members' Charter; and
- (f) to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

5.04 Chairing the Council Meeting

The Chairman shall undertake the following duties:

- (a) to determine that meetings of the Council are properly constituted and that a quorum of members is present;
- (b) to be informed as to the business and objects of meetings;
- (c) to preserve order in the conduct of those present;
- (d) to confine discussion within the limits required by the business to be determined and within a reasonable period of time;
- (e) to rule on the admissibility of motions and amendments put in debate by the Members of the Council;
- (f) to formulate summaries of those issues arising in debate for the consideration of the meeting;
- (g) to adjudicate on points of order and personal explanation raised at meetings and other incidental issues;
- (h) to determine the proper and most appropriate method of voting on any question before the Council;
- (i) to put relevant questions to the meeting, secure orderly votes thereon and declare the result;
- (j) to inform the Council whether he or she will vote on any matter to be determined;
- (k) to give, if appropriate, a second vote or a casting vote in order to deal with an equality of votes in the circumstances set out in this Article;

(l) to adjourn any meeting of the Council should the circumstances justify or require it, having first of all taken such steps to establish that Members of the Council support such action;

(m) to read out any motion to exclude the press and public from meetings and to seek the consent of the Council; and

(n) to sign the minutes of Council meetings as a correct record, following approval by the Council.

In carrying out these duties, the Chairman shall at all times act in accordance with legal requirements as advised by the Chief Executive, shall take care to ensure that the rights of individual members shall at all times be protected and, in the conduct of meetings shall disregard considerations arising from political affiliation and shall always have regard to the civic dignity of the Council and the office of Chairman.

5.05 Use of Casting Vote

The Chairman of the Council shall, at all times, have due regard to the requirements of the Constitution and statute law concerning the use of a "second" or "casting" vote. The Chairman shall:

(a) give a "second" vote (after voting previously on the issue) or a "casting" vote (having not voted previously) on any issue on which there is equality of voting;

(b) shall issue a "second" or "casting" vote in favour of the status quo unless there is a legal requirement to vote otherwise than for the status quo;

(c) may decline to give a second or casting vote if an affirmative vote is not required on grounds of urgency or otherwise and an opportunity will arise to consider the matter again, within a reasonable period; and

(d) shall, in the circumstances outlined in (c) above, explain such a decision to the Council.

5.06 Civic/Ceremonial Role

(a) In the carrying out of civic duties on behalf of the Council, the Chairman shall at all times act in a way consistent with the dignity of the office of Chairman and the policies of the Council.

(b) The Chairman of Council as first citizen in the district and the representative of the Queen will take precedence in the absence of the Lord Lieutenant of Essex. If the Chairman is invited to a function organised by or within the district he/she is always the Guest of Honour.

(c) When the Chairman of Council is invited to carry out duties at an official Council function (e.g. naming of a street or opening of Council buildings), the following people should be invited to attend:

(i) the Chairman of the Committee or member of the Executive responsible for the function;

(ii) the Leader of the Council or a member of Cabinet nominated by the Leader;

(iii) if the Chairman of the Committee is unavailable, the Vice-Chairman of the Committee shall deputise;

(iv) district members for the ward in question;

(v) the Service Director responsible for the function;

(vi) Parish Chairman or Town Mayor;

(vii) other members and officers agreed by the Chairman of Council, the Chairman of Committee, the Leader of the Council and the Service Director; and

(viii) the Public Relations and Marketing Officer will attend appropriate functions when the press are invited.

5.07 Absence of Chairman and Vice-Chairman

There may be occasions when the Chairman of the Council and Vice-Chairman of the Council cannot attend functions. In these circumstances, the Chairman of the Council shall nominate a past Chairman of the Council or other appropriate member to act on his/her behalf at any such event.