

## 2. CONSTITUTION AND MEMBER SERVICES STANDING PANEL

*The Constitution and Member Services Standing Panel consisted of the following members:*

Councillor Mrs M McEwen (Chairman)  
Councillor J Philip (Vice Chairman)  
Councillors Mrs P Brooks, Mrs J Hedges, J Knapman, J Markham, G Mohindra, R Morgan, D Stallan, Mrs M Sartin, and Mrs J H Whitehouse.

The Lead Officer was Ian Willett, Assistant to the Chief Executive.

### *Terms of Reference*

To undertake reviews of constitutional, civic, electoral and governance matters and services for members on behalf of the Overview and Scrutiny Committee and to report to the Overview and Scrutiny Committee, the Council and the Cabinet with recommendations on matters allocated to the Panel as appropriate.

*The Panel scrutinised a number of important issues over the last year, which included:*

**(i) Officer Delegation – Planning Applications and Comments by Town and Parish Councils** - Local councils stated “no objection” to applications which had appeared to be interpreted by Planning Officers as taking a neutral stance on these applications. This gave authority to make a delegated decision for granting or refusing consent. Officer delegation provided for such comments to be taken into account in deciding whether reference to a Sub-Committee should take place.

Members noted that the issue was already covered in clause P4 (I) of the Planning Protocol. Determination under delegated powers was not reliant upon whether the local council had used or not used the term “Support” or “No Objection” but whether there were overriding reasons for refusing the application in any event.

It was recommended that officers use discretion in holding expressions of support from local councils by providing guidance on planning issues to local councils through the Member Training Programme and council meetings. Reassurance on this issue would be passed to parish clerks via letter and at the Local Council Liaison Committee.

**(ii) Review of European, County, District and Parish Elections** – The Panel reviewed the elections that took place in May 2009 and feedback their findings and views to the Returning Officer and the main Overview and Scrutiny Committee. They made several suggestions on the running of elections and the set up of the count generally for consideration by the Returning Officer.



**(iii) Audit Review – External Organisations and Partnerships** – The Panel reviewed an internal audit report about partnership working by the Council and the protocol currently included in the Constitution.

Member's attention was drawn to an Item of the Protocol on Partnerships and Other External Organisations and the effect of the Code of Conduct on Elected Members. The Council's Code of Conduct stated that a Councillor had a personal interest in any business of the Authority where it related to or was likely to affect any external body to which they were appointed or nominated by the council as its representative. However, the interest need only be disclosed at a meeting if the councillor spoke on the matter concerned.

They were advised that outside bodies sometimes made decisions which were not covered by the Council's insurance and the outside body must have indemnity insurance. However, the District Council was satisfied that all current trusts working with the Council had indemnity insurance.

**(iv) Civic Events – Chairman of Council – Guidelines** - At the meeting of the Panel in April 2009 Members had requested that guidance was established setting out the Chairman's responsibilities for events which would be inserted into the current guidance document provided to the Chairman at the start of each year.

**(v) Financial Regulations - Annual Review 2009/10** - Each year a cross directorate working party of officers carried out a review of Financial Regulations, Contract Standing Orders and officer delegation ensuring that these documents were updated and reflected statutory requirements.



The proposed changes to external funding related to "Responsibilities of Chief Officers." Currently Chief Officers complied with the external funding strategy including obtaining and acting upon advice on legal or financial aspects of external funding applications from the Solicitor to the Council and the Chief Finance Officer.

Comparison work with other Councils had shown that all external funding applications should be signed by the Chief Finance Officer before being submitted. This had not been included in EFDC's Financial Regulations, but it was felt best to implement this change. Other proposed changes were to reflect changes in job titles and minor wording improvement.

**(vi) Demonstration of E-call-in System** - A presentation was made to the Panel regarding an E-Call-In system.

The current call-in system for decisions made by the Cabinet or by individual Portfolio Holders required that three members of the Overview and Scrutiny Committee or five members of the Council could call-in a decision.

Using the E-Call-in system meant that the identity of the Councillors making the call-in could be validated with the VPN token. However officers would check identities as a matter of course.

The Panel recommended that the Electronic Call-In System be activated from April 2010 and any changes to the Constitution be approved by the Council.

**(vii) Annual Review of Contract Standing Orders** - Each year a cross-directorate working party of officers carries out a review of Financial Regulations, Contract Standing Orders and Officer Delegation to ensure that these documents are up to date and reflected current statutory requirements and operational needs. This report concerned Contract Standing Orders that had been discussed by the Officer Working Party. The changes required the approval of the Overview and Scrutiny

Committee and adoption by the Council. The revised Contract Standing Orders would then be published in the Constitution.

**(viii) Role of the Monitoring Officer – Draft Protocol** - The Chairman of the Audit and Governance Committee had requested a report on the need for a protocol between the District Council and the Monitoring Officer regarding the roles and responsibilities of that statutory officer. This would manage the relationship between the authority and the Monitoring Officer on a mutually agreed basis. The Monitoring Officer was a designation that was introduced in the Local Government and Housing Act 1989.

### ***Case Study: Review of Overview and Scrutiny***

The Constitution and Member Services Scrutiny Standing Panel began the year with its main piece of work, the Review of Overview and Scrutiny procedures. The review stretched from June 2009 to November 2009.

During the review, the members agreed a new style of minutes for Panels, a bullet point format was adopted in place of the narrative method. The Panel was briefed on the Councillor Call for Action empowering elected members to refer issues of concern to the appropriate panel, but only after all other means of resolution were exhausted. Members were made aware of the Local Democracy, Economic Development and Construction and Community Empowerment bills, which made the promotion of democracy a local authority responsibility. It was advised that there would be a direct role in this for the Chairman of Council. It was also felt that the flow of consultation documents needed streamlining, only allowing those of relative importance or that required a particular response to be put before scrutiny panels for discussion.

The Overview and Scrutiny Review concluded with a member led exercise investigating the scrutiny procedures of other local authorities. Each Panel member was tasked with checking the websites of two local authorities, one district sized, the other county or city sized. The members then reported back to the Panel with any conclusions they made. They suggested that scrutiny needed a bigger profile through wider publicity; they also thought that more public input in the scrutiny process was needed and easily digestible scrutiny reports. Public questions should be encouraged as they were at Cabinet and Council meetings. New methods were needed of obtaining public suggestions for items of scrutiny. The District Council's website was being re-designed with a wider explanation of scrutiny and the annual report would be edited to facilitate easier reading of it, there is still minor work to be done to develop some of these ideas and our work programme for next year will include the need for further work.