

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Constitution and Members Services **Date:** Thursday, 23 September 2010
Scrutiny Standing Panel

Place: Committee Room 1, Civic Offices, **Time:** 7.30 - 9.15 pm
High Street, Epping

Members Present: Mrs M McEwen (Chairman), K Chana (Vice-Chairman), Ms J Hedges, J Markham, J Philip, Mrs M Sartin, D Stallan, Mrs J Sutcliffe and Mrs J H Whitehouse

Other Councillors: Mrs D Collins

Apologies: R Cohen

Officers Present: I Willett (Assistant to the Chief Executive) and M Jenkins (Democratic Services Assistant)

9. NOTES OF THE LAST MEETING

RESOLVED:

That the notes of the last meeting of the Panel held on 24 June 2010 be agreed.

10. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was reported that there were no substitute members present at the meeting.

11. DECLARATIONS OF INTERESTS

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

12. TERMS OF REFERENCE/WORK PROGRAMME

(1) Terms of Reference

The Panel's Terms of Reference were noted.

(2) Work Programme

(a) The Panel was advised that an extra item had been added to its Work Programme concerning the discretionary power of the Leader at Cabinet meetings to conclude all agenda business by 10.00p.m. It was agreed that this issue would be discussed at the December 2010 panel meeting.

(b) Members asked that a report be submitted to the Panel regarding the possible Referendum on an Elected Mayor.

RESOLVED:

(1) That a report on Referendum on an Elected Mayor be included in the Panel's Work Programme.

13. CANCELLATION OF MEETINGS

The Panel received a report from Mr I Willett, Assistant to the Chief Executive, regarding Cancellation of Meetings in Extreme Weather Conditions.

During the severe weather earlier in the year, transport conditions had been so difficult that one or two meetings were cancelled due to safety concerns and the quorum. The procedure for cancelling meetings had two elements:

- the decision to cancel; and
- notification of interested parties

The current unwritten protocol, was that cancellation of meetings, whether due to extreme circumstances or lack of business was a matter initially referred by Democratic Services staff to the Chairman concerned. If the Chairman agreed to cancel then Democratic Services staff would:

- communicate this decision to the members of the body concerned
- place notification on the website and in the reception areas for the benefit of the public,
- cancel the accommodation and Superintendent cover
- advise any other individuals who were known to attend the meeting from the public.

The Panel were reminded of the recent introduction of the SMS Text Messaging Service, whereby an instant update could be relayed to all members who had subscribed to it.

When meetings were cancelled due to lack of business, this process was usually fairly simply achieved. However, with situations like extreme weather conditions, it often had to be carried out at the last moment.

It was advised that at least two hours was required before a meeting was due to commence, to announce its cancellation.

RECOMMENDED:

- (1) That the Constitution should provide clear procedures for the cancellation of meetings; and
- (2) That the following be added to the Council's Procedure Rules:

"Cancellation of Meetings

The decision to cancel any meeting of the Council shall be made by the Chairman in consultation with the Chief Executive (or his representative). In circumstances where a meeting has to be cancelled for reasons which are outside the Council's control at short notice, the decision to cancel shall be made not later than 2 hours before the commencement of the meeting on the day of the meeting and notified to all Councillors and other interested persons as soon as possible thereafter" and amend the existing Procedure Rule 24 by adding the following words:

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“The requirements of Procedure Rule 5 (Cancellation of Meetings) above shall apply to the Cabinet, Committees, Panels and Sub-Committees and any other meeting convened by the Authority.”

14. DEPUTY PORTFOLIO HOLDERS

The Panel received a report from Mr I Willett, Assistant to the Chief Executive, regarding Deputies to Portfolio Holders.

At the meeting of the Overview and Scrutiny Committee on 1 June 2010, a proposal from Councillor C Whitbread concerning a review of the desirability of establishing Deputies to Portfolio Holders was referred to the Panel for consideration.

Creating Deputy Portfolio Holders would give more members an insight into how the Cabinet worked, providing an experience of working more closely with officers and could spread the Executive workload.

Five specific review items were raised in the proposal which were dealt with in turn below:

(1) Statutory restrictions on responsibilities undertaken by a Deputy Portfolio Holder

Legislation prescribed that a Leader and Cabinet Executive must consist of no less than three Councillors (including a Leader) and no more than 10 (including a Leader).

Legislation prescribed that arrangements for the carrying out of Executive functions could be delegated in the following manner:

- to the Cabinet itself;
- to members of the Cabinet individually;
- to any committees of the Executive; and
- to officers of the Council

Deputy Portfolio Holders could not be full members of the Cabinet, and therefore could not participate in its decisions either individually or collectively. However guidance issued in 2000 from the Government suggested the Executive could invite any person considered appropriate to attend its meetings and speak on behalf of an absent Executive member. However, that person would not take formal decisions. The duties and responsibilities of a Deputy Portfolio Holder would be as follows:

- Assisting the designated Cabinet member in shaping and developing the strategic priorities of the Council as it related to the allocated portfolio.
- Assisting the designated Cabinet member in monitoring performance in specified areas relating to the allocated portfolio.
- Where appropriate and where permissible under the Council’s Constitution, represent the designated Cabinet member at meetings or visits.

(2) “Pairing” Assistants with specific Portfolio Holders

The number of appointments could be the same as the number of Cabinet members and each of the Deputies could be allocated to a specific Portfolio Holder assisting with their duties. Alternatively, a smaller number of Deputies could be appointed to act as a “pool” of Deputies for all Cabinet members.

(3) Payment of Special Responsibility Allowances

Payments could be made to Deputy Portfolio Holders by way of a Special Responsibility Allowance. These allowances allowed the Council to determine remuneration for responsibilities which were over and above those of a Councillor, the latter being reflected in the basic allowance.

However, the Council could not make payments to Deputy Portfolio Holders because these were not currently included in the Remuneration Scheme. This option would have to be referred to the Independent Remuneration Panel and its report considered by the Council before the scheme could be amended.

(4) Conclusion

The Panel noted that the Council could determine whether it wished to appoint Deputy Portfolio Holders. In practice, these appointments would be made at the discretion of the Leader of the Council. It was suggested that:

- (a) appointments should be for one Council year;
- (b) that Deputies should be assigned to specific Portfolio Holders so that roles were clear;
- (c) that Deputy Portfolio Holders did not have decision making powers but could, if the Leader so determined, assist Portfolio Holders in compiling decision reports and reports to the Cabinet with no change to the accountability of the Portfolio Holder for the decisions made;
- (d) that in the absence of a Portfolio Holder, another Cabinet would make decisions, not the Deputy;
- (e) that Portfolio Holders would still sign Portfolio Holder reports and present Cabinet reports;
- (f) that if deputies were to be involved in drafting reports etc, close liaison arrangements between the Portfolio Holder, the Deputy and the Service Director (s) concerned were necessary;
- (g) that Article 6 of the Constitution and the Executive Procedure rules should be altered to introduce Deputy Portfolio Holders as formal appointments within the Council; and
- (h) that question of payments of Special Responsibility Allowance to Deputy Portfolio Holders was a matter for the Independent Remuneration Panel and in order to facilitate this the Panel and the Council would need to agree the "Job Description" for these Deputy positions.

The Leader of the Council informed the Panel that, subject to Council approval she intended to make appointments to positions of Deputy Portfolio Holders during the current year. The Panel concluded that this initial experience would assist in considering the question of Special Responsibility Allowance.

RECOMMENDED:

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- (1) That positions of Deputy Portfolio Holders be introduced and included in the Council's Constitution;
- (2) That the proposed amendments to Article 6 of the Constitution and the Executive Procedure Rules as shown in the attached Appendix 2 to these notes be approved;
- (3) That the Member Role Statement for Deputy Portfolio Holders set out in the attached Appendix 3 to these notes be approved; and
- (4) That the application of Special Responsibility Allowance to Deputy Cabinet Member positions be deferred until 2011/12 to allow more time for these new positions to be assessed in their initial period of operation.

15. CABINET MEETINGS - INVITATIONS/REQUESTS TO ADDRESS CABINET MEETINGS

The Panel received a report from Mr I Willett, Assistant to the Chief Executive, regarding presentations by members of the public at Cabinet meetings.

There had been occasions when requests were made by external organisations or individuals to address Cabinet meetings about items of business on the agenda. This had highlighted the fact that there was no provision within the Constitution for such representations to be made. Authority rested on the Leader of Council's discretion as Chairman at Cabinet meetings.

The former Corporate Executive Forum (CEF) took the view that although there was no query on the arrangements made previously, it was preferable to make provision in the Constitution for these presentations to be made.

(1) Current Arrangements – Questions by the Public at Cabinet Meetings

The Executive Procedure Rules indicated that among the business items to be transacted at a Cabinet meeting could be questions from members of the public in accordance with the Council's agreed scheme.

(2) Current Arrangements – Public Questions at Council Meetings

The arrangements for public questions at Council meetings was very similar to the Cabinet except that questions must be submitted in writing by midday seven days before the Council meeting. The person concerned was notified within 48 hours as to whether the question was valid. The other conditions which related to Cabinet questions also applied to Council meetings.

(3) Representations at Area Plans Sub-Committees

At Area Plans Sub-Committees, representations were made rather than questions being asked. The procedure in this case was that a speaker must register with the Council by 4p.m. on the day before the meeting, speakers had a maximum of three minutes.

(4) Addressing the Cabinet

The members requested that public speakers should be allowed to speak for up to 3 minutes only, but only on agenda items. It was felt that should be no more than two speakers on any one item and no more than six speakers per meeting.

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RECOMMENDED:

- (1) That provision be made in the Executive Procedure Rules, in the Constitution, regulating arrangements for members of the public or other organisations to address Cabinet meetings on agenda business;
- (2) That the proposed additional clause in the Executive procedure Rules set out in the revised Appendix 1 to these notes be approved;
- (3) That these arrangements be reviewed in 12 months times; and
- (4) That similar provision be made in the overview and Scrutiny Procedure Rules as set out in the revised Appendix 2 to these notes, in order to provide for similar arrangements to operate at Overview and Scrutiny Committee meetings.

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

There were three reports being submitted to the forthcoming meeting of the Overview and Scrutiny Committee on Monday 18 October 2010. They were as follows:

- Cancellation of Meetings;
- Deputy Portfolio Holders; and
- Cabinet Meetings – Invitations/requests to Address Cabinet Members

The Chairman would also refer to the two additional items being proposed for the Panel's Work Programme.

17. FUTURE MEETINGS

The next programmed meeting of the Panel was on Tuesday 9 November 2010 at 7.30p.m. in Committee Room 1.

CHAIRMAN

SUGGESTED CONSTITUTIONAL AMENDMENTS – DEPUTY PORTFOLIO HOLDERS

1. Executive Procedure Rules

ADD New Paragraph (to be numbered).

“The Leader of the Council may appoint between 3 and 10 Deputy Portfolio Holders who shall –

- (a) assist the designated Cabinet Member in shaping and developing the strategic priorities of the Council as it relates to the allocated portfolio.
- (b) assist the designated Cabinet Member in monitoring performance in specified areas relating to the allocated portfolio.
- (c) where appropriate and where permissible under the Council’s Constitution, represent the designated Cabinet Member at meetings or visits.

Such appointments shall be at the discretion of the Leader and shall be notified to Council at its annual meeting. The term of office of any Deputy Portfolio Holder shall be for one year from the Annual Council meeting concerned but may be varied by the Leader at any time.

Deputy Portfolio Holders shall not be members of the Cabinet, or any Cabinet Committee and may not exercise any executive powers, which shall be reserved to Cabinet members either collectively or individually.

Deputy Portfolio Holders may, however, be invited to speak at Cabinet or Cabinet Committee meetings on matters where they assisted Cabinet members but may not vote.”

2. Article 7 – The Executive

ADD New Paragraph (to be numbered 7.05):

“Deputy Portfolio Holders

The Leader of the Council shall also, at his or her discretion, appoint Deputy Portfolio Holders on an annual basis in accordance with the Executive Procedure Rules contained in the Constitution.”

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MODEL JOB DESCRIPTION FOR DEPUTIES CABINET MEMBERS

Purpose

To assist and work with the designated Cabinet Member with their responsibility for allocated portfolios.

Duties and Responsibilities

1. To assist the designated Cabinet Member in shaping and developing the strategic priorities of the Council as it relates to the allocated portfolio.
2. To assist the designated Cabinet Member in monitoring performance in specified areas relating to the allocated portfolio.
3. Where appropriate and where permissible under the Council's Constitution to represent the designated Cabinet Member at meetings or visits.

Skills Required

Basic

1. To show good communication and interpersonal skills.
2. To show the ability to analyse and grasp complex issues.

Developmental

3. To develop a good understanding of how local and national and government operates.
4. To develop a clear understanding of the operation of the Council and ability to contribute to the work of the Cabinet generally.
5. To develop skills in chairing meetings and facilitating open discussion.

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PROPOSED REVISION TO EXECUTIVE PROCEDURE RULES

Add new paragraph 5:

“5. REQUESTS BY THE PUBLIC/OUTSIDE ORGANISATIONS TO ADDRESS THE CABINET

- (a) Any member of the public or a representative of an outside organisation may address the Cabinet on any agenda item (except those dealt with in private session as exempt or confidential business) due to be considered at a meeting.
- (b) The following rules shall apply to such requests:
 - (i) requests must relate to an existing agenda item;
 - (ii) requests must not raise new business for the meeting concerned;
 - (iii) all requests must be notified to the Council by 4 pm on the day of the meeting;
 - (iv) requests need not be in writing;
 - (v) a maximum of two persons shall be permitted to address the Cabinet on any one agenda item;
 - (vi) a maximum of six persons shall be permitted to address the Cabinet at any individual meeting;
 - (vii) a time limit of 3 minutes per speaker shall apply;
 - (viii) if the number of requests to address the Cabinet exceeds the maximum of six, they will be prioritised by reference to date of receipt;
 - (ix) this procedure shall not apply to Cabinet Committees.”

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PROPOSED REVISION TO THE OVERVIEW AND SCRUTINY PROCEDURE RULES

Add new paragraph 19.2 as follows:

“19.2 Any member of the public or a representative of an outside organisation may address the Overview and Scrutiny Committee on any agenda item (except those dealt with in private session as exempt or confidential business) due to be considered at a meeting. The following rules shall apply to such requests:

- (i) requests must relate to an existing agenda item;
- (ii) requests must not raise new business for the meeting concerned;
- (iii) all requests must be notified to the Council by 4 pm on the day of the meeting;
- (iv) requests need not be in writing;
- (v) a maximum of two persons shall be permitted to address the Committee on any one agenda item;
- (vi) a maximum of six persons shall be permitted to address the Committee at any individual meeting;
- (vii) a time limit of 3 minutes per speaker shall apply;
- (viii) if the number of requests to address the Committee exceeds the maximum of six, they will be prioritised by reference to date of receipt.”

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