

Report to Constitution and Members Services Scrutiny Standing Panel

Date of meeting: 19 November 2013

Subject: Vice Chairman of Council – Appointment Review

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Recommendations/Decisions Required:

- (1) To consider comments made on the draft constitution article for the Appointment of the Vice Chairman of Council; and**
- (2) To make appropriate recommendations to Overview and Scrutiny and Council on the proposed new procedure accordingly.**

1. At the last meeting Members considered a report on a revised method for appointing the Vice Chairman of Council. Following that meeting Officers circulated members wishes articulated at that meeting. The draft section of Article 5 is attached at Appendix 1 to this report. The current Article is attached as Appendix 2.

2. As agreed at that meeting, a wider consultation was undertaken with all members via the Member Bulletin on 18 October 2013. As a result the following comments have been made on the Vice Chairman proposals:

Councillor K Angold-Stephens:

“The LRA is wholly opposed to the increase in nominations for VC from 12 to 15. This discriminates against smaller parties and individual members. Members find it unseemly to go from meeting to meeting to drum up support when they are on their own or part of a small group. This decision would clearly favour a majority party whose members would be able to sign at a group meeting and would almost certainly do so if it was a member of their own party. It thus discriminates in favour of the majority party when the person is supposed to be selected on merit and not on political persuasion. So far our council has been quite fair in its approach but an unscrupulous majority party in the future could make sure their candidate always won which is against the spirit of the job and against the constitution but there would be no way of others being able to successfully challenge that decision. Even 12 is a high hurdle for some individual members but we accept the bar has to be set somewhere.

I am also surprised the report did not recommend a method of supporting nominations by e-mail instead of actual signatures. There must be a way of doing this to avoid the necessity of an individual having to tout their nomination from meeting to meeting to gain a signature or, as recently, travelling around the District to gather signatures.

We accept that finding a solution will not be easy but this proposal does nothing to address the issue and may make matters worse.”

Councillor G Chambers:

"I agree with all comments in the revised section of 5.02 with the exception of section d.

There needs to be a further 15 signatures to endorse the vice chairman to become chairman. This of course would allow members to vote out someone who proves not be suitable during his or her time in office as the vice chair.

Additionally 15 signatures could be sent in opposing the vice chair to become chair which would then mean we would need a vote in chamber. Just feel here needs to be mechanism to remove someone who becomes unsuitable. Perhaps we have this elsewhere in the constitution."

Councillor D Jacobs:

"Please note that i do not agree with proposals outlined in members bulletin 18/10 page 13 5.02 as would wish to see other proposals."

Councillor B Sandler:

"I understand the content and cannot disagree with this style of appointment but this should only be put into operation if the Council does not have a one party majority. I firmly believe that if one party has the control of the Council then that party alone should hold the Office of Chairman and Vice Chairman."

Councillor P Spencer:

"The proposals should look at ways of including suitable candidates from minority parties and independents."

Councillor D Stallan

"I support the proposed amendments to section 5.02 as stated. I have no additional comments to make."

Councillor Janet Whitehouse

"In response to the consultation on the appointment of the Vice Chairman I didn't support the proposals for change at the scrutiny panel and I confirm that I don't support the revised section 5.02 proposals.

I would like all members to have the opportunity to be consulted on all the possibilities that were in the report that came to the scrutiny panel."

3. Members are asked to consider comments made and whether they wish to make recommendations to Overview and Scrutiny Committee for onward consideration by the Full Council.

Draft for Consultation

Prepared by Simon Hill from discussion at Constitution and Members Services Panel discussions on 24 September 2013

Proposed revised section of Article 5 – Chairing the Council

Revised section 5.02 to replace current provisions:

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 by the Council at its Annual meeting. This election is subject to the procedure set out below in paragraph 5.02(e)

The appointment of the Vice-Chairman of the Council shall be undertaken by the Council on the basis of merit in accordance with the following provisions:

- (a) Nominees for the office of Vice-Chairman of the Council are required to submit a nomination form supported and signed by not fewer than 15 serving District Councillors when the Appointments Panel holds its first meeting in any municipal year.
- (b) Nominees for Vice-Chairman of the Council may be a Councillor from any political group on the Council or any independent or unaffiliated Councillor;
- (c) Nominations shall be considered by the Appointments Panel for onward recommendation to the Annual Council meeting;
- (d) It is expected that the person appointed by the Council as Vice-Chairman of the Council shall normally be elected as the Chairman of the Council for the following Council year;
- (e) If, for any reason, a Vice Chairman is unable to be elected as Chairman of the Council following their year as Vice Chairman, the procedure outlined in (a) to (c) above shall also apply to the election of a new Chairman.
- (f) The Council may suspend the operation of the appointment process set out under (a) – (c) above at an Annual Council meeting. A motion to that effect and giving reasons as to why this would be in the best interests of the Council may only be adopted if the equivalent of 65% of Council members present at the meeting vote in favour.

Current provisions

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 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.

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 Chairmen 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 firstly the Lord Lieutenant of Essex and secondly the Chairman of Essex County Council. 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 him;

- (iii) 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 Head of Service; and
 - (viii) the Public Relations and Marketing Officer will attend appropriate functions when the press are invited.
- (d) Separate protocols are included in Part 5 of the Constitution regarding election of Vice-Chairman and the role of the Chairman and Vice-Chairman generally.

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.