

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION WORKING GROUP
HELD ON TUESDAY, 30 JUNE 2015
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.00 - 9.25 PM**

Members Present: M McEwen (Chairman), A Mitchell MBE, J Philip, C C Pond, C P Pond, D Stallan, G Waller and J H Whitehouse

Other members present:

Apologies for Absence: M Sartin and D Dorrell

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

1. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

There were no substitutions made at the meeting.

2. DECLARATIONS OF INTEREST

Pursuant to the Officer's Code of Conduct, the Assistant Director (Governance and Performance Management) S Hill declared a non pecuniary interest in the following item of the agenda as the Officer Employment Rules could potentially impact on his employment within the Council. He advised that he would remain in the meeting for the duration of the discussion on the following item:

- Agenda Item 6 Officer Employment Procedure Rules

3. NOTES OF THE LAST CONSTITUTION AND MEMBER SERVICES SCRUTINY PANEL MEETING HELD ON 3 AND 17 MARCH 2015

The Working Group received the notes from the disbanded Constitution and Member Services Scrutiny Panel, which for a year had undertaken the review of the Constitution. The notes concerned the last Panel meeting held on 3 March and adjourned to 17 March 2015. The notes were for use only as an aid memoir as they had been confirmed at the Overview and Scrutiny Committee in June 2015.

4. POSITION STATEMENT AND PROGRAMME

The Working Group received a progress report on the current review of the Constitution from the Assistant Director (Governance and Performance Management).

The recent scrutiny review undertaken by the recently disbanded Constitution and Member Services Scrutiny Panel had resulted in the formation of this Working Group. Its Terms of Reference, approved by Council in April 2015, were to "complete a review of the Council's Constitution by 31 March 2016 and recommend new arrangements accordingly." Thereafter the Working Group would:

- (a) Review any aspect of the authority's Constitutional arrangements as requested by the Council;
- (b) Undertake general reviews of specific elements of the Constitution to ensure that the authority's Constitutional arrangements complemented current legislative requirements and decisions made by the Council; and
- (c) Consider any proposals of the Director of Governance for necessary revisions to any element of the Constitution.

The reporting procedure for the new Working Group would not be the Overview and Scrutiny Committee as previously but directly to Council.

The Working Group agreed their Terms of Reference and Work Programme.

RESOLVED:

- (1) That the position statement regarding the Constitution Review be noted; and
- (2) That the Working Group's Terms of Reference and Work Programme be noted.

5. OFFICER EMPLOYMENT PROCEDURE RULES

The Select Committee received a report from the Assistant Director (Human Resources) regarding Disciplinary Arrangements for Relevant Officers.

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 were new statutory disciplinary and dismissal procedures which applied to heads of paid service, monitoring officers and chief financial officers.

The key elements of the new process were that:

- (a) The dismissal of a relevant officer must be approved by way of a vote at a meeting of the authority, who would be able to dismiss provided they took into account:
 - (i) Any advice, views or recommendations of a Panel;
 - (ii) The conclusions of any investigation into the proposed dismissal; and
 - (iii) Any representations from the relevant officer concerned.
- (b) The process set out above had been extended to cover the Chief Finance Officer and Monitoring Officer.
- (c) It would not apply to disciplinary action short of dismissal.
- (d) The Council was required to set up a Panel and appointed two relevant independent persons to this Panel.

The Panel must include at least two independent persons that would need inviting onto the Panel. The Council could appoint other suitably experienced or qualified independent persons or use an independent person appointed by another authority. Additionally, the normal proportionality rules applied to such committees which meant

that the Panel would be subject to the Council's pro rata rules by which the political groups would have representation there according to their relative numbers on the Council.

The Working Group supported making the Constitutional amendments to adhere to the new regulations. They were also advised that the new regulations provided little detail of how the new process would operate in practice and there were a number of gaps within the legislation regarding composition of the Panel.

The Constitution was required by law to be amended in accordance with Schedule 3 of the 2015 Regulations, once further advice was available from the Local Government Association a guidance note would be submitted to this Working Group for consideration. Members had requested that a review should take place in six months time based on any further advice submitted by the Government.

RECOMMENDED:

- (1) That a report be made to Council recommending the adoption of the revised Officer Employment Procedure Rules and that they be incorporated into the Council's Constitution; and
- (2) That the revised rules be subject to further revision based on Government guidance in six months time.

6. CONTRACT STANDING ORDERS - REVIEW PROCESS

The Working Group received a report regarding Review of Contract Standing Orders from the Assistant Director (Governance and Performance Management).

The Corporate Governance Group, had previously considered the difficulty that many staff procuring contracts for the Council had in following and complying with Contract Standing Orders. Accordingly, the Council's Management Board had determined that a new officer working group should be established, chaired by the Director of Communities, to fundamentally review the Council's Contract Standing Order and formulate new ones for consideration by the Constitution Working Group and make onward recommendation to the Council. This would form part of the comprehensive review of the whole of the Council's Constitution.

It was advised that the Working Party would report on the proposed new Contract Standing Orders to the Constitution Working Group in time for approval with the rest of the revised Constitution by March 2016. It was noted that consideration of the report and recommendations of the Working Party had been added to the Constitution Working Group's Work Programme for 2015/16.

RESOLVED:

That the following be noted:

- (1) The formation of an officer Contract Standing Orders Working Party, chaired by the Director of Communities, to fundamentally review the Council's Contract Standing Orders and formulate new ones that:
 - (a) Adopt a more modern and flexible approach;
 - (b) Were simpler to understand and comply with;

- (c) Were more responsive to the current and future procurement needs of the Council;
 - (d) Met current EU Procurement Regulations; and
 - (e) Ensured appropriate controls and probity to safeguard the use of public money.
- (2) The Terms of Reference of the Contract Standing Orders Working Party set by the Management Board proposed reporting arrangements and timescales; and
- (3) That consideration of the report and recommendations of the Working Party be added to the Constitution Working Group's Work Programme for the 26 January 2016 Working Group meeting.

7. EXECUTIVE PROCEDURE RULES AND REVISED ARTICLES

The Working Group received a report regarding the Constitution Review – Executive Procedure Rules and Revised Article 7 from the Assistant Director (Governance and Performance Management).

Members were reminded that the previous scrutiny panel had briefly discussed Article 7 which alongside the Executive Procedure Rules, governed the operation of the Executive.

Members made good progress at the meeting making recommendations to the article and rules, completing an amended version of both.

Members supported circulating an amended version of both to the Working Group. It was agreed that a draft should be sent to the Leader for comments as well.

RECOMMENDED:

That a draft of the Executive Procedure Rules and Revised Article 7 be circulated to the Working Group members and Leader for comments before being recommended to the Council for approval.

8. FUTURE MEETINGS

The next scheduled meeting of the Working Group would be held on Tuesday 22 September 2015 at 7.00p.m. in Committee Room 1 and thereafter on the following dates:

- 22 September;
- 24 November
- 26 January 2016; and
- 22 March