

**EPPING FOREST DISTRICT COUNCIL  
NOTES OF A MEETING OF CONSTITUTION WORKING GROUP  
HELD ON TUESDAY, 22 MARCH 2016  
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING  
AT 7.00 - 8.30 PM**

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

**Other members present:**

**Apologies for Absence:** M Sartin, C C Pond and J H Whitehouse

**Officers Present** S G Hill (Assistant Director (Governance & Performance Management)), S Tautz (Democratic Services Manager), R Wilson (Assistant Director (Housing Operations)) and M Jenkins (Democratic Services Officer)

**39. SUBSTITUTE MEMBERS (MINUTE ITEM 39 - 23.7.02)**

There were no substitutions made at the meeting.

**40. NOTES OF THE LAST WORKING GROUP MEETING**

**RESOLVED:**

That the notes of the last meeting of the Working Group held on 26 January 2016 be agreed.

**41. TERMS OF REFERENCE AND WORK PROGRAMME**

The Working Group's Terms of Reference were noted and progress noted in regard to the Work Programme.

**42. NEW PROCUREMENT RULES**

The Working Group received the new Procurement Rules from the Assistant Director of Governance and Performance Management.

At its last meeting the Working Group considered the draft new Procurement Rules which had been produced by the (Officer) Contract Standing Orders Working Party, and endorsed by the Corporate Governance Group. The draft was to replace the Council's current Contract Standing Orders.

The Working Group had previously suggested some minor changes, incorporated into the final version. The draft had been considered by an external procurement solicitor, following which some further small changes had been made.

This final version of the rules was supported by the Working Group and recommended to the Full Council for adoption.

**RECOMMENDED:**

That the new Procurement Rules be recommended to Council.

#### **43. PROPOSED TERMS OF REFERENCE - AUDIT & STANDARDS COMMITTEE**

The select committee received a report regarding the Proposed Terms of Reference of the Audit and Standards Committee from the Assistant Director Performance Management.

At the Council meeting in February 2016, members considered a difference of view between the Audit and Governance Committee and the Standards Committee about a proposed merger of the two committees from May 2016. The Council decided that this Working Group should consider the concerns expressed by the Standards Committee and report back to the April Council meeting, alongside submitting the new Constitution.

The Standards Committee promoted and maintained high standards of conduct by Members. However, matters around Member conduct at committee level were relatively light and three of the six scheduled meetings had been cancelled in the last 18 months.

The Audit and Governance Committee was responsible for providing independent assurance of the adequacy of the Council's risk management framework and provided independent scrutiny of the authority's financial and non-financial performance. They approved the financial statements and Annual Governance Statement as well. A new committee would require a standing item concerning Standards issues. It was advised that a number of other authorities had combined their Audit and Standard Committees successfully, the main reasons being low numbers of complaints and similarities between communities dealing with governance issues.

The proposed Audit and Standards Committee would have the objective of making a positive contribution to the Council's governance and control environment. The proposed Terms of Reference articulated the Committee's wider remit which would include advising and reviewing the Council's arrangements for internal audit, internal control, risk management, financial management, standards and corporate governance.

The proposals had been considered by the Audit and Governance Committee at its meeting on 30 November 2015. The committee welcomed the proposals and were in general agreement that these two committees should merge as this would be more efficient.

The proposals were also considered by the Standards Committee on 25 January 2016, who accepted that the implementation of the new arrangements for dealing with member misconduct under the Localism Act 2011 had dramatically reduced its workload. However, after discussion, the committee was not minded to support the proposals and expressed a number of concerns regarding the proposed merger:

- (a) There were currently 9 members available to consider Standards issues, which would reduce to 3 under the proposals and it was felt that this was not enough;
- (b) There was a perceived lack of involvement by parish councils under the proposals as there were three representatives from the local councils affiliated to the Standards Committee; and

- (c) There was a perceived risk that a smaller committee would be less objective when considering standards issues.

Although Standards Committee members acknowledged that there was a synergy between the two committees, they felt that they considered two separate types of issues. It was also stated that a number of other committees also have meetings cancelled due to a lack of business or met on an ad hoc basis. This was not a sufficient reason to consider disbanding the committee and amalgamating it with another.

After debate, the Working Group voted to retain the separation of Audit and Standards. The vote was close with some members supporting the proposed changes, however, feelings that Standards issues could be diluted in a new, amalgamated committee were slightly stronger. The recommendations allowed for a review in two years and that the membership of the Audit and Governance Committee increase to five councillors.

**RECOMMENDED:**

- (1) That the Council be recommended to retain the Audit and Governance Committee and Standard Committee as separate meetings;
- (2) That the Council be asked to consider a review of the Standards Committee in 2 year's time; and
- (3) That the Audit and Governance Committee be increased to five councillors.

**44. HOUSING APPEALS AND REVIEW PANEL**

The Working Group received a report from the Assistant Director (Housing Operations) regarding the Discontinuation of the Housing Appeals and Review Panel (HARP).

The former Housing Committee in March 1991, agreed that the District Council set up a Housing Management Appeals Panel under its revised committee structure. At that time, any client of the Housing Directorate could appeal against, or request a review of, any decision made by an officer of the directorate on any Housing Management matter including all statutory Homelessness Reviews.

However Members were advised that the Panel only considered a small number of cases, 7 in 2014/15 and 6 in 2015/16, the majority of which were appeals against homelessness.

The Assistant Director (Housing Operations) had brought to the attention of the HARP Chairman, the amount of officer and member time involved in the process. Any review undertaken by the panel could be completed by a senior officer who specialised in such complex cases in half a day or less compared to the 3 days of officer time and 1 day for the Panel member's time needed for each case considered.

Officers were not aware of any other Council where such decisions were taken by Member Panels and there was no statutory duty for Housing Appeals to be considered by Members. There was some doubt around the legality of members making decisions on homelessness cases, should any case proceed to court there

was a likelihood that the Panel Chairman could be called to defend the Council's decision.

A report would be submitted to the Housing Portfolio Holder for consideration to be given to the appointment of an external company specialising in Homelessness Reviews to undertake reviews currently made by officers.

The Chairman of the Panel agreed that consideration should be given to the discontinuation of the Panel. The Chairman had also discussed the matter with 4 members of the Panel who agreed in principle.

**RECOMMENDED:**

- (1) That the Housing Appeals and Review Panel be discontinued with immediate effect;
- (2) That responsibility for all Housing Appeals and Reviews currently within the scope of the Panel be delegated to the appropriate Assistant Director of Communities and, in the case of Homelessness Reviews, the Housing Options Manager as required, with any appropriate changes being made to the list of officer delegations; and
- (3) That any consequential changes be made to the Council's Constitution.

**45. CONSTITUTION REVIEW - FINAL DRAFT PROPOSALS**

The Working Group received the Final Draft of the Constitution from the Assistant Director Governance and Performance Management.

Members were reminded that Counsel had been engaged by the authority to advice on the following:

- (a) The appropriateness of the Constitution;
- (b) Whether any matters in the draft should be deleted or included;
- (c) Any material deficiencies and what amendments would be required;
- (d) Errors within the draft needing correction; and
- (e) Whether the provisions met ongoing requirements of the Local Government Act 2000.

The Counsel's opinion, received in early March, was submitted to members and was summarised as follows:

The proposed Constitution was a substantial improvement on the existing document, successfully rationalising and simplifying the document, avoiding duplication and being very much shortened. A key feature had been the removal of the "Responsibility for Functions" into the Articles including specific terms of reference, procedural rules, protocols and other detailed provisions.

The Working Group supported the new draft and were asked to recommend further changes to the Planning Protocol and advise on gifts and hospitality for future consideration. The final draft was recommended to the Council for adoption on 26 April 2016.

**RECOMMENDED:**

That subject to the proposed amendments suggested by Counsel, the Constitution be recommended to Council for adoption at its meeting on 26 April 2016.

**46. FUTURE MEETINGS**

This was the last meeting of the Working Group for this Council year. The Chairman thanked members and particularly Democratic Services for their help with completing the first new draft of the Constitution. It was noted that the first meeting of the Group in the new year would be on Tuesday 20 September 2016.

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