

# Committee Agenda



**Epping Forest  
District Council**

## **CONSTITUTION WORKING GROUP Tuesday, 5th October, 2021**

**Place:** Virtual Meeting on Zoom

**Time:** 7.00 pm

**Democratic Services Officer:** V. Messenger Tel: (01992) 564243  
Email: democraticservices@eppingforestdc.gov.uk

### **Members:**

Councillors S Rackham (Chairman), M Sartin (Vice-Chairman), D Dorrell, S Heap, S Jones, H Kauffman, J Mclvor, J Philip, C C Pond, J Share-Bernia and J H Whitehouse

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### **1. APOLOGIES FOR ABSENCE**

### **2. SUBSTITUTE MEMBERS**

To report the appointment of any substitute members for the meeting.

### **3. NOTES OF PREVIOUS MEETING (Pages 3 - 6)**

To agree the notes of the meeting of the Working Group held on 2 September 2021.

### **4. TERMS OF REFERENCE & WORK PROGRAMME (Pages 7 - 10)**

To review the terms of reference and progress with the achievement of the current work programme for the Working Group.

### **5. CONSTITUTION - REVIEW OF ARTICLE 4 THE FULL COUNCIL TERMS OF REFERENCE SUB-PARAGRAPH 1 (C) (Pages 11 - 18)**

To review the list of plans and strategies listed at sub paragraph 1 (c) of Article 4 of the Constitution (see report attached).

### **6. DATE OF NEXT MEETING**

To note that the next meeting of the Working Group will be held virtually on 3 February 2022 at 19.00.

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**EPPING FOREST DISTRICT COUNCIL  
NOTES OF A MEETING OF CONSTITUTION WORKING GROUP  
HELD ON THURSDAY, 2 SEPTEMBER 2021  
IN VIRTUAL MEETING ON ZOOM  
AT 7.00 - 7.30 PM**

**Members Present:** S Rackham (Chairman), M Sartin (Vice-Chairman), S Heap, S Jones, J Mclvor, J Philip, C P Pond, C C Pond, J Share-Bernia and J H Whitehouse

**Apologies for Absence:** H Kauffman

**Officers Present:** N Boateng (Service Manager (Legal) & Monitoring Officer), A Hendry (Democratic Services Officer), S McNamara (Procurement and Contract Development Manager), V Messenger (Democratic Services Officer), A Small (Strategic Director Corporate and 151 Officer), J Warwick (Acting Service Director (Contracts)) and G Woodhall (Team Manager - Democratic & Electoral Services)

**7. SUBSTITUTE MEMBERS**

The Committee noted that Councillor C P Pond was appointed as substitute for Councillor H Kauffman.

**8. NOTES OF PREVIOUS MEETING**

**RESOLVED:**

That the notes of the meeting of the Working Group held on 27 July 2021 be agreed as a correct record.

**9. TERMS OF REFERENCE & WORK PROGRAMME**

**(a) Terms of Reference**

The Working Group noted the Terms of Reference.

**(b) Work Programme**

The Working Group noted the work programme.

**10. CONSTITUTION - REVISIONS & AMENDMENTS**

A Small, Strategic Director (Corporate) and 151 Officer, introduced the report. Currently on completion of the external audit, the Statement of Accounts underwent detailed consideration by the Audit and Governance Committee but required the approval of Full Council under the Constitution, in particular, the Council's Terms of Reference – Article 4 under Section 1(c). Regulation 20 of the Accounts and Audit (Amendment) Regulations 2021 had now amended Regulation 10 of the 2015 Regulations and required the Council to publish its 2020/21 Statement of Accounts and supporting documents (together with any external audit certificate or opinion) by 30 September 2021, which had moved the deadline forward from 30 November requirement for the 2019/20 Statement of Accounts. This was a challenging

timeframe. Council had supported giving delegated authority to Audit and Governance Committee at its meeting on 29 July 2021, subject to consideration by the Constitution Working Group.

Members raised the following questions:

- If the Statement of Accounts did not go to Council at what stage would members see the accounts?
- Audit and Governance was not high profile enough nor did it seem right for the Committee to both scrutinise and approve the Statement of Accounts.
- The Statement of Accounts was more prominent on the Council agenda.
- Was there a way to publicise to members that the accounts had been through Audit and Governance so that there was more an advisory announcement to Full Council, in the interests of transparency, rather than a requirement?

A Small replied that the whole process was a struggle to co-ordinate with the external auditors, then present to Audit and Governance in addition to seeking Council approval. Thus, moving the completion date forward by two months had only increased the pressure on finance officers and the external auditors. The members of the Audit and Governance Committee had a greater understanding of the technicalities of accounting. The Statement of Accounts was fairly impenetrable and took account of the findings in the external auditor's report, which was presented alongside. All members could attend Audit and Governance Committee and the agenda was published online accompanied by all the relevant documents. In previous years the Statement of Accounts had not generated much scrutiny at Council but was more a straightforward process of approval.

Councillor J Philip, Portfolio Holder (Finance, Qualis Client and Economic Development), fully supported approval of the Statement of Accounts by Audit and Governance Committee. There had not been any significant issues raised at Full Council in past years. Audit and Governance was a specialist committee that received input from the external auditor and looked at the Statement of the Accounts in great detail. From an overall operational view, the opinion of Audit and Governance Committee was already accepted, so there was no point in having Full Council rubberstamp the Statement of Accounts. Therefore, to keep to the timescales it was the sensible and straightforward approach to take. He would continue to notify Council members about the progress of the Statement of Accounts as this was important and would highlight any issues at appropriate times.

Councillor M Sartin remarked that councillors should be following the progress of the Statement of Accounts and suggested it was also publicised in the Bulletin when it was due to go before the Audit and Governance Committee.

#### **RESOLVED:**

That the Constitution Working Group recommended to Council the amendment of the Constitution under Article 4, section 1(c), to give the Audit and Governance Committee delegated authority for approving the Council's annual Statement of Accounts, with effect from the 2020/21 financial year.

**11. COVID-19 DEVELOPMENT PROJECTS - LOCAL BUSINESS SUPPLIERS PROCUREMENT STRATEGY AND RULES**

The Procurement and Contract Development Team Manager, S McNamara, reported that the current Procurement Strategy was renewed in January 2021 to reflect how Procurement could support the delivery of the Council's Corporate Objectives and Covid-19 recovery plan by increasing the number of local suppliers invited to tender, and paying local suppliers faster. Social value and sustainability evaluation criteria were being used wherever possible in procurement exercises to maximise the benefits to the District and to ensure sustainable practices throughout the Council's supply chains. The creation of a social value matrix measured contractors on elements such as the locality of their business, their supply chains, workforce and any other benefits they might bring to the District. A procurement checklist guided officers through a step by step process and helped officers meet the socially sustainable evaluation criteria. The Procurement Rules had been updated to ensure these changes were adopted into everyday practices, but the Rules also needed to be incorporated into the Constitution.

Members raised the following questions:

- How did the Council guarantee local suppliers were paid within 30 days?
- Would the Procurement Team invite tenders to compete against Qualis?
- Could feedback on the experience and use of the social value matrix since January 2021 be reported back to a scrutiny committee?
- It would be useful for a scrutiny select committee to receive a progress report on this and the use of apprentices or work placements, which would help people, and was easier to do for local companies. Were new local companies coming forward?
- Support for the Essex Procurement Hub that was a good resource owing to the cost savings the Council had achieved, which helped to keep Council Tax low, but were there any other procurement hubs that could be beneficial to the Council that it was not a part of yet?

S McNamara replied that electronic invoices were usually paid within 21 days. He did not know the KPI performance figures although he could research data after the meeting, if required. Qualis would be treated as an internal supplier but if Procurement officers felt the need to include their details with external suppliers, this could be done on a case by case basis. So far, six or seven projects had requested that bidders complete the social value matrix and officers had received some good responses back, so they were happily surprised at the take up. However, other local authorities were also doing this already. Officers had to find two companies rather than one, and more local suppliers were coming forward. The social value matrix could technically be changed to include work placements, which officers could amend on request. Other procurement hubs had not been implemented as the Essex Procurement Hub was working very well and brought the Council savings. The resources the Council had received since joining and becoming a member of the Essex Procurement Hub was most cost effective and efficient. There were also working groups within procurement where best practice was shared.

Councillor J Philip, Portfolio Holder (Finance, Qualis Client and Economic Development), was fully supportive of the updated Procurement Rules and Strategy as it was helping to promote economic development within the District. The Council's Economic Development Team was reaching out to businesses with its newsletter – Epping Forest Business Matters. He supported a report going to a scrutiny committee to track relevant KPIs, such as to cover invoice payments, so positive progress could be highlighted.

**RESOLVED:**

- (1) That the Working Group noted the updated Procurement Strategy for 2021 – 2026; and
- (2) That the Working Group recommended to Council the incorporation of the updated Procurement Rules of August 2021 within Part 4 of the Constitution.

**12. DATE OF NEXT MEETING**

It was noted that the next meeting of the Working Group would be held virtually on 5 October 2021 at 19.00.

## CONSTITUTION WORKING GROUP

### TERMS OF REFERENCE

**Title:** Constitution Working Group

**Status:** Working Group

**Terms of Reference:**

- (1) To review any aspect of the authority's constitutional arrangements as requested by the Council;
- (2) To undertake general reviews of specific elements of the Constitution in order to ensure that the authority's constitutional arrangements complement current legislative requirements and decisions made by the Council; and
- (3) To consider any proposals of the Monitoring Officer for necessary revision to any element of the Constitution.

**Reporting:**

The Working Group shall report directly to the Council in connection with its Terms of Reference and the achievement of its work programme.

**Chairman:** Cllr S Rackham

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**Constitution Working Group**  
**(Chairman – Councillor S Rackham)**  
**Work Programme 2021/22**

<b>Item</b>	<b>Timescale</b>	<b>Progress</b>	<b>Officer / owner</b>
(1) Constitution	Ongoing	To consider the ongoing review of the Constitution to ensure alignment with the Council's management structure.	N Boateng
(2) Procurement Rules 2021	27 July 2021  2 September 2021	To consider the new Procurement Rules (agreed by Cabinet Dec 2020); and  Continued from July 2021 meeting.	J Warwick / S McNamara
(5) Statutory Statement of Accounts – change of delegated authority for approving	2 September 2021	Change of delegated authority for approving Statutory Statement of Accounts from Council to Audit & Governance Committee (Council (Minute no 27) recommendation made to Constitution Working Group at 29.07.21 meeting).	A Small / N Boateng
(3) Article 4 – The Full Council Terms of Reference	5 October 2021	To review Article 4 – The Full Council Terms of Reference sub-paragraph 1 (c).	N Boateng (report due)
(4) Part 3 – Scheme of Delegation – Appendix 3 – Delegation to Officers from Full Council	3 February 2022	To discuss the delegated powers in relation to Planning Officers.	N Boateng (report due) (to incl. N Richardson, A Marx, G Courtney)
(6) Joint Meeting of Development Management Chairmen and Vice-Chairmen	3 February 2022	To reconsider the composition and function of the twice annual Joint Meeting of Development Management Chairmen and Vice-Chairmen (Minute no 4).	Cllr C C Pond (report due) (to incl. N Boateng, N Richardson, A Marx)

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## **Report to Constitution Working Group**

**Date of meeting: 5 October 2021**



**Epping Forest  
District Council**

**Subject: Constitution – Review of Article 4, The Full Council Terms of Reference sub-paragraph 1 (c)**

**Officer contact for further information: N Boateng (01992 564323)**

**Democratic Services Officer: V. Messenger (01992 564243)**

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### **Recommendations/Decisions Required:**

**To review the list of plans and strategies listed at sub paragraph 1 (c) of Article 4 of the Constitution and determine whether they are still required or whether they need to be updated.**

### **Report:**

1. Article 4 of the Council's Constitution deals with the Full Council. Section 1 is the Terms of Reference for Full Council, section 2 deals with the three types of Full Council meetings that are held, and section 3 deals with its responsibility for delegating those functions that are not the responsibility of the Executive. (See attached as Appendix 2).

2. Section 1 (c) of the Council's Terms of Reference details those plans and strategies which are the prerogative of Full Council to adopt. During the Member training session on "How the Council Works" held on 14 May 2021, some of the delegates queried as to whether this list was up to date within the Constitution. Consequently, it was felt by Officers that this list should be reviewed by the Constitution Working Group to ensure that all of the plans and strategies listed are still relevant for the adoption by the Full Council.

3. The table in Appendix 1 lists these plans and strategies, the date they were last agreed by Full Council, and the length of time that each plan and strategy was due to run for. On the basis of this information, the Working Group is requested to consider whether any changes are required to this list of plans and strategies.

### **Resource Implications:**

The recommendations of this report seek to ensure that the Council's Constitution remains fit for purpose.

### **Legal and Governance Implications:**

The Council's Constitution sets out procedures and rules for the operation of its functions and responsibilities.

### **Safer, Cleaner, Greener Implications:**

There are no implications arising from the recommendations of this report in respect of the Council's commitment to the Climate Local Agreement, the corporate Safer, Cleaner, Greener initiative, or any crime and disorder issues within the district.

**Consultation Undertaken:**

The matters subject of recent revisions to the Constitution have been agreed by the Council.

**Background Papers:**

None

**Risk Management:**

The Council's Constitution sets out procedures and rules for the operation of its functions and responsibilities.

**Equality:**

There are no equality implications arising from the recommendations of this report.

<u>Plan / Strategy</u>	<u>Date Last Agreed</u>	<u>Term of Plan / Strategy</u>
Asset Management Plan (Strategy)	<ul style="list-style-type: none"> <li>Asset Management Strategy agreed by Cabinet 13 June 2019.</li> </ul>	N/A
Capital Strategy	<ul style="list-style-type: none"> <li>Recommended to Council by AGC 22-Mar-21.</li> <li>Will be on agenda for Council meeting 28-Oct-21</li> </ul>	5 years
Community Plan / Strategy	<ul style="list-style-type: none"> <li>Interim Council &amp; Community Plan considered by FPM Cabinet Committee 23-Jan-20 (updates on achievements with the Corporate Plan)</li> <li>Sustainable Community Strategy agreed by Council 14-Dec-10</li> </ul>	1 year  21 years
Corporate Plan	21 December 2017	5 years
Crime & Disorder Reduction Strategy	<ul style="list-style-type: none"> <li>Reported to the Stronger Communities Select Committee on 30-Mar-21 as the EF Community Safety Partnership Plan</li> </ul>	1 year
Leisure & Cultural Strategy	16-Dec-14	10 years
Local Plan, plus plans / strategies which comprise the Plan	<ul style="list-style-type: none"> <li>Process ongoing and not yet complete</li> <li>Submission Version of the Local Plan 2017 agreed by Council 14-Dec-17</li> <li>Draft Local Plan agreed by Council 18-Oct-16 for consultation.</li> </ul>	2033
Economic Development Strategy	<ul style="list-style-type: none"> <li>Consulted on in 2019 and submitted to Stronger Place Select Committee, but no evidence of it being adopted by Council.</li> </ul>	-
Housing Investment Programme	<ul style="list-style-type: none"> <li>Was agreed as part of the detailed Directorate budgets up to 2016.</li> <li>Superseded by 'New House Builds' in the HRA and the Council Housebuilding Programme agreed by Cabinet.</li> <li>Still agreed as part of the budget proposals each year: 25-Feb-21</li> </ul>	1 year
Local Transport Plan	<ul style="list-style-type: none"> <li>No direct evidence of adoption by Full Council recently but might now be superseded by the Transport policies in the Local Plan.</li> </ul>	-
Social Inclusion Strategy	<ul style="list-style-type: none"> <li>No direct evidence of adoption by Full Council recently.</li> <li>References to it in the Annual (Good) Governance Statement up to 2008.</li> </ul>	-
Statutory Statement of Accounts	25 February 2020	2018/19

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## ARTICLE 4 - THE FULL COUNCIL

### Terms of Reference

1. The Council, and only the Council, will exercise the following functions:
  - (a) Adoption of and changes to the Constitution;
  - (b) Approval of, adoption of and revisions to the policy framework and the budget. (The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits);
  - (c) Adoption of the following:
    - Asset Management Plan
    - Capital Strategy
    - Community Plan/Strategy
    - Corporate Plan
    - Crime and Disorder Reduction Strategy
    - Leisure and Cultural Strategy
    - Local Plan and plans and strategies which comprise the Plan
    - Economic Development Strategy
    - Housing Investment Programme
    - Local Transport Plan
    - Social Inclusion Strategy
    - Statutory Statement of Accounts (yearly)Other plans which it decides, as a matter of local choice, should be the responsibility of the Council to adopt or are otherwise required by statute.
  - (d) Approval of any application to the Secretary of State in respect of any Housing Land transfer, which includes but is not limited to, the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985;
  - (e) Adoption of the Council's Code of Conduct;
  - (f) Subject to the urgency procedure, contained in the Access to Information Procedure Rules in Part 4 of the Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
  - (g) Election/Appointment of the Chairman and Vice-Chairman of the Council;
  - (h) Appointing the Leader of the Council;

- (i) Appointments to Committees and Sub-Committees (including Chairmen and Vice-Chairmen) by recommendation of the Appointments Panel (if required) except those relating to Executive functions which are the responsibility of the Leader of Council and those delegated to the Overview and Scrutiny Committee;
- (j) Agreeing and amending the terms of reference for Committees, except those relating to Executive functions which are the responsibility of the Executive and those delegated to the Overview and Scrutiny Committee;
- (k) Appointing representatives to outside bodies except those relating to executive functions which are the responsibility of the Leader of Council;
- (l) Adopting an allowances scheme under Article 2 as set out in Part 6 of this Constitution and setting the allowances of the Chairman and Vice Chairman of Council;
- (m) Confirming the appointment or dismissal of the Head of Paid Service;
- (n) Agreeing proposals for redundancy of Chief Executive, Directors, Monitoring Officer, Deputy Monitoring Officer and Chief Financial Officer;
- (o) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (p) All local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive;
- (q) Approval of or changes to the scheme of Council delegation set out in Part 3 of this Constitution; and
- (r) The appointment of Honorary Aldermen and Alderwomen under the procedure agreed by the Council on 20 December 2018.
- (s) The appointment of Member Champions under the procedure agreed by the Council on 30 July 2019.
- (t) All matters that fall to the Council as set out in the Council procedure rules in Part 4 of this Constitution.

### **Council Meetings**

2. There are three types of Council meeting:

#### **(a) The annual meeting**

The annual meeting will take place within 21 days of the retirement of the outgoing councillors, no later than June each year.

The annual meeting will:

- (i) elect a person to preside if the Chairman of the Council is not present;
- (ii) elect the Chairman of the Council;
- (iii) appoint the Vice-Chairman of the Council;



- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Chairman of the Council;
- (vi) elect the Leader of the Council;
- (vii) be notified by the Leader of the Council of appointments to the Cabinet, on the establishment of Cabinet Committees and memberships, delegation of Executive responsibilities to Cabinet members and officers and appointments to outside organisations carrying out executive functions;
- (viii) Receive a report from the Appointments Panel and determine those appointments that are the responsibility of the Council, including the Chairmen and Vice-Chairmen of Committees, Panels and Groups, and appointments to outside bodies;
- (ix) agree the scheme of delegation of functions which are not the responsibility of the Leader of Council;
- (x) approve a programme of ordinary meetings of the Council for the year;
- (xi) consider any business set out in the notice convening the meeting;

**(b) Ordinary meetings**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (ii) approve the Minutes of the last meeting;
- (iii) receive any declarations of interest from members;
- (iv) receive any announcements from the Chairman of the Council, the Leader of the Council and members of the Executive;
- (v) receive questions from and provide answers to the public and members of the Council in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting in the following order:
  1. Public Questions
  2. Questions under Notice by Councillors
  3. Questions by Councillors to the Leader of Council, Cabinet members and the Chairman of the Overview and Scrutiny Committee on written reports and on questions without notice on other matters in accordance with rules set out in the rules for questions set out in the Rules in Part 4 of this Constitution.
- (vi) receive reports from the Leader of the Council on the appointment of a Deputy Leader, the Cabinet, Cabinet Committees, Responsibilities of Cabinet members, appointments to outside organisations which are the responsibility of the Executive and delegation of Cabinet functions to officers;

- (vii) receive a report from the Leader of the Council on any delegation of executive functions to Joint Committees and local Committees;
- (viii) receive written reports from the Leader of the Council, the Chairman of the Overview and Scrutiny Committee and each of the Portfolio Holders and receive questions and answers on any of those reports or any matters falling within their area of responsibility;
- (ix) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (x) consider motions;
- (xi) consider any other business specified in the summons to the meeting, including consideration of proposals from the executive in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committees for debate, including annual reports for both Overview and Scrutiny Committees and the Executive on their activities in April of each Council year;
- (xii) any matter of public concern allocated to any ordinary Council meeting for the purpose of debate;
- (xiii) deal with any items of business deemed by the Chairman as urgent business in accordance with Section 100B(4) of the Local Government Act 1972.
- (xiv) debate and respond to petitions where the number of signatures meets or exceeds the trigger level contained in the Council's petitions scheme

**(c) Extraordinary meetings.**

An extraordinary meeting of the Council shall transact the business set out in the agenda but shall exclude motions and questions. Single Issue Council meetings will be an extraordinary meeting.

**Responsibility for Functions**

3. The Council will keep up-to-date the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.