

Report to Constitution Working Group

Date of meeting: 28 September 2017



**Epping Forest
District Council**

Subject: Constitution - Revisions & Amendments

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Recommendations/Decisions Required:

- (1) That a report be made to the Council recommending that:**
 - (a) the following revisions be made to the Procedure Rules of the Constitution with immediate effect:**

Q3(1) (Revised) “Members of the public may ask questions of the Leader of the Council, any Portfolio Holder, or the Chairman of the Overview and Scrutiny Committee, at ordinary meetings of the Council”;

Q3(2) (New) “Members of the public may also ask questions of any Portfolio Holder at ordinary meetings of the Cabinet and of the Chairman of the Overview and Scrutiny Committee at ordinary meetings of the Committee”; and
 - (b) the following revision be made to Appendix 1 of Article 6 of the Constitution with immediate effect:**

1(q) “to review the implications of consultation documents relating to matters affecting the Epping Forest District, where requested by members or considered appropriate by the relevant Service Director, and to respond to such matters on behalf of the Council”; and
- (2) That recent changes to the Constitution implemented in accordance with the authority delegated to the Director of Governance for the maintenance of the Constitution, be noted.**

Constitution – Proposed Revisions

1. (Director of Governance) The Working Group is asked to consider the following proposed revision to the Council’s Constitution, to ensure that the Constitution remains fit for purpose.

Overview and Scrutiny – Public Questions

2. A discrepancy in the provisions of Article 6 (Overview and Scrutiny) and Procedure Rule Q3 of the Constitution has recently been identified, as a result of the submission of a public question to the Overview and Scrutiny Committee.
3. Paragraph 22 of Article 6 currently provides that ‘Members of the public may ask questions of the Chairman of Overview and Scrutiny Committee at ordinary meetings of the Committee, in accordance with the procedure set out in the Council procedure rules set out in Part 4 of the Constitution’.

4. However, Procedure Rule Q3(1) provides that 'Members of the public may ask questions of the Leader, Chairman of Overview and Scrutiny Committee or any Portfolio Holder at ordinary meetings of the Council and of Cabinet members at Cabinet meetings'. This appears to suggest that questions may only be made to the Chairman of the Overview and Scrutiny Committee at meetings of the Council, rather than of the Committee itself.
5. In handling the public question recently made to the Overview and Scrutiny Committee, the view of the Monitoring Officer was taken that the provisions of the Overview and Scrutiny Article of the Constitution should take precedence over Rule Q3. However, it is considered that the opportunity should now be taken to ensure consistency between these two elements of the Constitution. It is therefore suggested that Rule Q3 be clarified by the addition of a new Rule Q3(2) as follows:

Q3(1) (Revised) "Members of the public may ask questions of the Leader of the Council, any Portfolio Holder, or the Chairman of the Overview and Scrutiny Committee, at ordinary meetings of the Council";

Q3(2) (New) "Members of the public may also ask questions of any Portfolio Holder at ordinary meetings of the Cabinet and of the Chairman of the Overview and Scrutiny Committee at ordinary meetings of the Committee".

6. The remaining existing elements of Procedure Rule Q3 are already appropriate in terms of the submission of public questions to the Council, the Cabinet and the Overview and Scrutiny Committee. These require no amendment, save for re-numbering arising from the proposed addition of the new rule Q3(2).

Overview and Scrutiny – Consultation Documents

7. Article 6 (Overview and Scrutiny) of the Constitution currently provides (Appendix 1 1(q)) for the Overview and Scrutiny Committee "to review the implications of Government consultation documents where requested by members". The Committee has delegated a similar form of authority to each of the existing Select Committees, through the annual adoption of appropriate terms of reference.
8. In practice however, it is clear that the Overview and Scrutiny Committee and certain of the Select Committees have previously undertaken consideration of the implications of non-Government consultation documents, particularly those issued by other local authorities or other statutory agencies, where considered appropriate by service directors. In one particular recent instance, the consideration of a consultation exercise by the Neighbourhoods Select Committee had to be subsequently regularised by a Portfolio Holder decision.
9. In order to achieve a practical way forward in terms of the consideration and response to appropriate consultation documents, it is therefore suggested that Paragraph 1(q) of Appendix 1 of Article 6 of the Constitution, be revised as follows:

1(q) "to review the implications of consultation documents relating to matters affecting the Epping Forest District, where requested by members or considered appropriate by the relevant Service Director, and to respond to such matters on behalf of the Council".
10. Subject to the agreement of this proposed revision to the Constitution, the existing delegation made by the Overview and Scrutiny Committee for the select committees to consider consultation documents on its behalf, will also need to be revised. This will be addressed through a revision to the terms of reference for each select committee.

Constitution – Update

11. A revised edition of the Constitution was published on 20 June 2017 in accordance with the authority delegated to the Director of Governance for the maintenance of the Constitution This update to the Constitution included the following:
 - (a) a revised schedule of Portfolio Holder Responsibilities (Part 3) (Scheme of Delegation - Appendix 4);
 - (b) a revised schedule of Officer Delegation Arrangements (Part 3) (Scheme of Delegation - Appendix 5); and
 - (c) the adopted Members' Allowances Scheme and schedule of implementation for 2017/18 (Part 6 - Scheme of Allowances).
12. Appropriate revisions were also made throughout the Constitution, to reflect changes to Portfolio Holder Responsibilities from the current municipal year. Members were advised of the revisions to the Constitution on its publication and through the Council Bulletin of 23 June 2017.

Resource Implications:

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

Legal and Governance Implications:

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

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 recommendations of this report have been subject to prior consultation with the Monitoring Officer and Deputy Monitoring Officer.

Background Papers:

None

Impact Assessments:

Risk Management

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

Equality:

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