

Constitution Committee

Date of Meeting: 6 April 2021

Report Title: Audit and Governance Committee Structure and Composition

Senior Officer: David Brown, Director of Governance and Compliance

1. Report Summary

- 1.1. This report presents, to the Constitution Committee, recommendations from the Audit and Governance Committee on its future composition and structure, for approval and inclusion in the Constitution.
- 1.2. The recommendations of this report have been developed through a working group established by the Audit and Governance Committee and were presented and agreed for recommendation to the Constitution Committee on 11th March 2021. That report is attached at Appendix 1, and the recommendations are summarised in the body of this report.
- 1.3. Following the meeting of the Audit and Governance Committee, a further clarification on the suggested Terms of Reference is proposed by the Director of Governance and Compliance; this is described and explained in this report.

2. Recommendations

- 2.1. That the Constitution Committee recommend the changes proposed by the Audit and Governance Committee, with the additional clarification identified after the Committee, to full Council, with any outstanding items being delegated to the Director of Governance and Compliance to resolve in consultation with the Chair and Vice Chair of the Constitution Committee, if required.

3. Reasons for Recommendations

- 3.1. The composition and structure of the Council's Audit and Governance Committee, along with its Terms of Reference, have been reviewed and updated to ensure that they address and recognise recommendations made in the Corporate Peer Challenge, the completion of the current co-opted independent member's term in March 2021, and the move to a Committee system of decision making.

4. Background

- 4.1. The Audit and Governance Committee received a report at their November 2020 meeting setting out various aspects for consideration in relation to the composition and structure of the Committee. The Committee established a working group, which reported back to the Committee with recommendations in March 2021.
- 4.2. The recommendations, approved by the Audit and Governance Committee are summarised below, and include the suggested Terms of Reference included at Appendix 1.
- 4.3. Further to the report being agreed for recommendation by the Audit and Governance Committee, the Director of Governance and Compliance requests the inclusion of the following wording, shown in 4.4, to provide clarification on the proportionality arrangements for a hearing sub-committee. This would be included in the Terms of Reference after the current paragraph 40.
- 4.4. *The requirement of political proportionality under section 15 of the Local Government and Housing Act 1989 is waived in relation to the sub-committee established under the above sub-paragraph.*

Size of the Committee

- 4.4.1. The current size of the committee is 10 elected members and one independent person (with voting rights) which gives a current proportionality of 4:3:2:1:0 (Conservative: Labour: Independent: Liberal Democrat).
- 4.4.2. Following consideration of the scope of the terms of reference as set out in Appendix A, the Audit and Governance Committee suggested a committee size of 9 elected members, which would be subject to proportionality. This would currently give the following; 4:3:2:0:0:0.

Co-opted Members

- 4.4.3. The Committee currently has one co-opted independent member. The recommendation is to include 2 co-opted independent members in addition to the above Committee's membership, on a fixed term membership of 4 years. The independent person is entitled to be reimbursed for expenses but does not receive any allowance or remuneration.
- 4.4.4. Voting rights for the co-opted independent members need to have regard for the Local Government and Housing Act 1989, under which Committees may appoint third party individuals to be members of committees, but they are required to be non-voting or voting co-optees under s102(4).
- 4.4.5. As per section 102(3) that a committee/sub-committee for regulating and controlling the finance of the local authority or the area can only include third-party appointees in the event that it is advisory, the independent members may only vote in prescribed circumstances; for example where a committee is acting in an advisory capacity and making recommendations, all members of the committee should be able to vote on the recommendation. Where the Council has delegated to the Committee decisions such as the adoption of financial statements, the independent member should not be able to vote on those matters.

Other recommendations

- 4.4.6. To maintain the apolitical nature of the Audit and Governance Committee, membership should ensure separation from decision making. To achieve this, the following are recommended by the Working Group
- 4.4.6.1. Membership of the Audit and Governance Committee may not include the Leader or Deputy Leader of the Council.
- 4.4.6.2. Membership of the Audit and Governance Committee may not include Chairs or Vice Chairs from the Service Committees, including the Corporate Policy Committee and Finance Sub Committee.
- 4.4.6.3. The Chair and Vice Chair of the Audit and Governance Committee may not sit on a service committee. If practicable they should not be from the controlling groups.

- 4.4.6.4. Responsibility for the Member Code of Conduct/Standards arrangements remain within the function of the Audit and Governance Committee.
- 4.4.6.5. The standing Chair of the Hearing Sub Committee is the Chair of the Audit and Governance Committee; when convened for any individual item, the Chair should be of a different group to any subject member.
- 4.4.7. The Working Group recommended that the Terms of Reference of the Audit and Governance Committee are reviewed promptly within the first year of operation within the Committee System, with any recommendations for change being brought forward to Council in due course.

5. Implications of the Recommendations

5.1. Legal Implications

- 5.1.1. The Localism Act 2011 amended the Local Government Act 2000 to allow councils to revert to a non-executive form of governance i.e. a committee system.
- 5.1.2. In relation to recommendations arising as a result of the proposed move to the Committee structure, the Working Group has shown regard to the allocation of seats on Committees to give effect to the political balance rules. The rules for the allocation of seats are set out in Sections 15 and 16 of the Local Government and Housing Act 1989 and Local Government (Committees and Political Groups) Regulations 1990.
- 5.1.3. The Accounts and Audit (England) Regulations 2015 say that a local authority is responsible “for a sound system of internal control which facilitates the effective exercise of its functions and the achievement of its aims and objectives; ensures that the financial and operational management of the authority is effective and includes effective arrangements for the management of risk”; and section 151 of the Local Government Act 1972 requires every local authority to “make arrangements for the proper administration of its financial affairs”. Therefore, whilst primary responsibility for these arrangements lies with the Council’s s.151 officer, the role of the Committee in providing oversight, challenge and assurance is critical in supporting this.
- 5.1.4. The preparation of the suggested terms of reference has been guided and assisted by the CIPFA guidance ‘Audit Committees: Practical Guidance for Local Authorities and Police’ 2018.

5.2. Finance Implications

5.2.1. Current arrangements in place are consistent with those for other non-elected, co-opted committee members. There are no financial implications outside of the MTFs in adopting the recommendations proposed.

5.3. Policy Implications

5.3.1. The recommendations proposed demonstrate that the Committee has considered best practice and the impact of the move to the governance system operation and has identified proposals to ensure the Committee composition and structure is appropriate for local requirements.

5.4. Human Resources Implications

5.4.1. There are no direct Human Resources Implications.

5.5. Risk Management Implications

5.5.1. Failure to consider these aspects may undermine future effectiveness of the Committee's ability to achieve its objectives.

5.6. Rural Communities Implications

5.6.1. There are no direct implications for rural communities.

5.7. Implications for Children & Young People/Cared for Children

5.7.1. There are no direct implications for children and young people.

5.8. Public Health Implications

5.8.1. There are no direct implications for public health.

5.9. Climate Change Implications

5.9.1. There are no direct implications for Climate Change

6. Ward Members Affected

6.1. Not applicable

7. Consultation & Engagement

7.1. The Audit and Governance Committee has received reports in relation to this in November 2020, January 2021 (verbal updated) and March 2021. The March 2021 report is attached at Appendix 1.

8. Appendices

8.1. Appendix One-Report of the Audit & Governance Committee, 11 March 2021.

9. Contact Information

9.1. Any questions relating to this report should be directed to the following officer:

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