

<b>MEETING:</b>	<b>AUDIT AND GOVERNANCE COMMITTEE</b>
<b>DATE:</b>	<b>27 JANUARY 2012</b>
<b>TITLE OF REPORT:</b>	<b>THE CONSTITUTION – NEW GOVERNANCE ARRANGEMENTS</b>
<b>REPORT BY:</b>	<b>ASSISTANT DIRECTOR LAW GOVERNANCE AND RESILIENCE</b>

**CLASSIFICATION:** Open

### **Wards Affected**

County-wide

### **Purpose**

To note and welcome the new membership of the Committee; and to consider the arrangements that need to be put in place to recommend any future changes that are necessary to the Constitution

### **Recommendations**

**THAT:**

- (a) **the new membership of the Committee and its new responsibilities be noted;**
- (b) **the Committee gives consideration to the way it wishes to deal with proposed changes to the Constitution; and**
- (c) **provision be made in the work programme of the Committee to deal with proposed changes to the Constitution.**

### **Key Points Summary**

- A major review of the Constitution has been undertaken by the former Constitution Review Working Group but it is likely that further changes will be required periodically.
- At its meeting on 18th November 2011, Council decided that ownership of such changes should be passed to the Audit and Governance Committee to make recommendations to the Council as appropriate.
- the Committee has been increased from seven to ten seats to cater for the new arrangements and Councillors PGH Cutter; AJ Hempton-Smith and TM James are welcomed as the new Members.

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Further information on the subject of this report is available from  
Pete Martens Committee Manager on (01432) 260248

- The Standards Committee is investigating the arrangements which can be introduced to deal with complaints about Councillors when the current standards regime comes to an end as required under the Localism Act 2011.
- One of the proposals from the Standards Committee is that a Standards Panel be created to hear complaints and for a report about the findings to be referred to the Audit and Governance Committee in cases involving a complaint about a Member of the Council. The proposals will be the subject of a report to Council and the Audit and Governance Committee will be informed of the outcome.

## **Alternative Options**

- 1 Council has previously considered the alternative options. Continuing with the CRWG was felt to be less transparent and would not be subject to public access, the Access to Information Rules or the rules guaranteeing political proportionality.
2. Another option would have been for the Constitution to have been given to the Standards Committee. The future of this Committee is still to be determined in the light of changes to the Standards Regime which will be introduced by the Localism Act 2011 when it comes into force.
3. The third option would have been to create a specialised Audit Committee with a small number of members, with governance and the Constitution becoming the responsibility of a larger Governance and Constitution Committee. This would have meant an extra committee and an extra chairman's allowance

## **Reasons for Recommendations**

4. To enable the Committee to note the new arrangements and decide on how it wishes to consider changes to the Constitution to be recommended to Council.

## **Introduction and Background**

- 5 The former CRWG was introduced on 24 July 2009 and its work was completed last year following the major review of the Constitution.
6. At its meeting on 18th November 2011 Council decided that the Audit and Governance Committee should consider any further proposed changes that are required to the Constitution. The number of seats on the Committee has been increased from seven to ten with an allocation of five Conservative; two Independent; two Its Our County and one Liberal Democrat Members.
7. The following amendments to the Constitution have been made:-

### **Part 2 – Articles**

- 2.7.2 the addition of the words “and that the Constitution is reviewed and amended as appropriate”

### **Part 3 – The Functions Scheme**

- 3.6.3 Audit and Governance Functions

the addition of paragraph n. with the words “review and make recommendations to Council to amend the Constitution”.

8. An extract from the Constitution on the matters relating to the Committee is attached at appendix 1

## **Key Considerations**

9. The changes will assist with the Council's governance arrangements which are aimed at providing accountability and transparency of decision making.

## **Community Impact**

10. The new arrangements will not have any community impact other than providing greater clarity of the decision making process.

## **Equality and Human Rights**

11. This decision does not have equality implications for the purposes of the Equality Act 2010.

## **Financial Implications**

12. There are no significant financial implications under the new arrangements.

## **Legal Implications**

13. The new arrangements are compliant with the Local Government Act 1972 and the Local Government and Housing Act 1989.

## **Risk Management**

14. Continuance of the previous CRWG could have led to a loss of accountability and transparency. Transfer to the Committee addresses the risk of reputational damage.

## **Consultees**

15. None

## **Appendices**

16. Appendix 1 Functions of Audit and Governance Committee

## **Background Papers**

None identified.

### EXTRACT FROM THE CONSTITUTION

#### PART 1 – INTRODUCTION AND SUMMARY

- 1.18.1 The Audit and Governance Committee considers the Council's governance arrangements and ensures that the financial affairs of the Council are properly conducted. (See Part 2 Article 7 for more detail.)

#### PART 2 – ARTICLES

##### **2.7.2 The Audit and Governance Committee**

- 2.7.2.1 The Audit and Governance Committee is responsible for overseeing the work of the Council's internal and external auditors, making recommendations to ensure the Council is well run and has good arrangements for managing money and risks, **and that the Constitution is reviewed and amended as appropriate.**

- 2.7.2.2 The Audit and Governance Committee is established and its membership determined by the Council.

##### **Role**

- 2.7.2.3 The Audit and Governance Committee has the roles and functions set out in Part 3 section 6 and the Audit and Governance Code (Part 5 section 12).

##### **Composition**

- 2.7.2.4 The Audit and Governance Committee comprises **ten** members of the Council and may also include an independent person who is not a Councillor and who has the same voting rights as other members of the Committee.

##### **Proceedings**

- 2.7.2.5 The proceedings of the Audit and Governance Committee and any sub-committee will be conducted in accordance with the rules in Part 4 section 1.

##### **Joint working of Standards and Audit and Governance Committees**

- 2.7.2.6 The Standards Committee and the Audit and Governance Committee will co-operate on governance matters and will have the right to report directly to the Council Meeting on those matters.

#### PART 3 - THE FUNCTIONS SCHEME

##### **3.6.3 Audit and Governance Functions**

- 3.6.3.1 The Council has established an Audit and Governance Committee to undertake audit and governance functions for the purposes set out in the Audit and Governance Code (Part 5 section 12)

- 3.6.3.2 The terms of reference are in line with the Chartered Institute of Public Finance and Accountancy's best practice guidance and are set out in full in the Audit and Governance Code (Part 5 section 12)

### 3.6.3.3 The role of the Audit and Governance Committee is to:

- a consider the effectiveness of the Council's risk management arrangements, the control environment and associated counter fraud and corruptions arrangements
- b seek assurance that action is taken on risk related issues identified by auditors and inspectors
- c satisfy themselves that the Council's assurance statements, including the annual governance statement, properly reflect the risk environment and any actions required to improve it
- d approve the internal audit strategy and plan and monitor its implementation
- e approve the Internal Audit strategy and plan and oversee its performance
- f review summary internal audit reports and the main issues arising and seek assurance that action is taken where necessary
- g receive the annual report of the Head of Internal Audit
- h consider reports of external audit and inspection agencies and take appropriate action where relevant to the remit of the Audit and Governance Committee
- i ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies
- j ensure that the Council actively promotes the value of the audit function and processes
- k review the financial statements, the external auditor's opinion and reports to members and oversee management action in response to the issues raised by external audit
- l consider any other matters not covered by the best practice guidance for Audit Committees but which are appropriate for the Audit and Governance Committee and are not within the remit of any other Council Committee or body.
- m approve, on behalf of the Council, the Council's statements of accounts, income and expenditure and balance sheet, or record of payments.

#### ***n. review and make recommendations to Council to amend the Constitution***

## PART 5 – THE CODES

### **SECTION 11 - AUDIT AND GOVERNANCE CODE**

#### **5.11.1 Composition**

- 5.11.1.1 The Committee will consist of seven non-executive councillors and may include an independent person who is not a councillor. This person, if appointed, must be appointed chairman of the Committee in accordance with Council Procedure Rule 4.1.5.2 (Part 4 section 1).

#### **5.11.2 Purpose**

5.11.2.1 The Council appoints the Audit and Governance Committee to ensure the effective and fully compliant governance of the Council and in particular to ensure that all aspects of the financial affairs of the Council are properly and efficiently conducted. The main purpose of this Committee is therefore to review and approve the Council's annual governance statement and annual statements of account. In so doing, the Committee shall scrutinise the effectiveness of, and management compliance with, the systems identified in the annual governance statement framework and monitor the progress made by management in implementing improvements to elements of that framework identified by external or internal audit review.

### **5.11.3 Key Terms**

5.11.3.1 The **annual governance statement framework** identifies the individual systems and sources of evidence used to support the preparation of the **annual governance statement**.

5.11.3.2 The key systems identified in the framework include risk management, procurement, the whistle blowing policy, the control environment and associated counter fraud and corruption arrangements, and the complaints process.

5.11.3.3 The key sources of evidence identified in the framework include the annual governance letter, external audit reports and the Chief Internal Auditor's audit assurance reports.

5.11.3.4 The **annual governance statement** is prepared in advance of the annual statements of account; it provides a commentary from management on compliance with the Council's code of governance and identifies areas for further improvement.

### **5.11.4 Scope of the Audit & Governance Committee**

5.11.4.1 The functions, powers and duties of the Audit and Governance Committee are set out in its Terms of Reference at 5.11.5. The Committee is able to call senior officers and appropriate members to account on issues within the Committee's remit as defined by its Terms of Reference.

5.11.4.2 The Committee is not responsible for reviewing specialist external inspection reports on service performance (for example, the annual OFSTED inspection) unless issues have been identified that directly relate to matters within the Committee's remit (for example, risk management of service related issues).

5.11.4.3 The Committee will not receive detailed information on investigations relating to individuals. The general governance principles and control issues may be discussed, in confidential session if applicable, at an appropriate time, to protect the identity of individuals and so as not to prejudice any potential action by the Council.

### **5.11.5 Terms of Reference**

5.11.5.1 The Committee's terms of reference shall be maintained in line with the Chartered Institute of Public Finance & Accountancy's (CIPFA's) latest best practice guidance for Audit Committees. The key statements made by CIPFA are highlighted in bold in the Committee's Terms of Reference. **[See 3.6.3]**

5.11.5.2 **To consider the effectiveness of the Council's risk management arrangements, the control environment and associated counter fraud and corruption arrangements by:**

- a reviewing and approving the annual governance statement framework once a year.

- b approving the Council's counter fraud and corruption policies and reviewing them on a biennial basis.
- c reviewing and approving the Council's whistle blowing policy on a biennial basis.
- d being part of the consultation process when the Council's complaints policy is being reviewed.
- e monitoring the effective operation and development of the systems identified in the annual governance statement framework, calling for special reports where necessary and bringing to notice any inconsistency, short comings, gaps or duplications in these systems.

**5.11.5.3 Seek assurance that action is taken on risk related issues identified by auditors and inspectors by:**

- a monitoring acceptance by management of audit recommendations and progress in implementing agreed action plans.
- b reviewing audit recommendations not accepted by management and making an appropriate recommendation to Cabinet if it is considered that the course of action proposed by management presents a risk in terms of the effectiveness of or compliance with the Council's control environment.
- c monitoring progress upon the further improvements identified in the annual governance statement.
- d monitoring progress in respect of resolutions and recommendations made by the Committee.

**5.11.5.4 Satisfy themselves that the Council's assurance statements, including the annual governance statement, properly reflect the risk environment and any actions required to improve it by:**

- a reviewing and approving the annual governance statement framework annually.
- b receiving and commenting upon the Chief Internal Auditor's annual report on the Council's risk environment.

**5.11.5.5 Approve internal audit's strategy and plan and oversee performance by:**

- a reviewing and approving the internal audit strategy, internal audit charter and annual internal audit plan once a year, commenting on the adequacy of internal audit resources to ensure key systems are examined in line with the assessed level of risk. Exceptionally, the Committee may identify specific lines of enquiry for internal audit work in line with paragraph 5.11.5.12 (f).
- b reviewing performance against the internal audit plan through the interim and final audit assurance reports prepared by the Chief Internal Auditor for each of the Committee's meetings.
- c noting the external auditor's opinion on the quality and effectiveness of the internal audit function.
- d commenting on the scope for further improvement in internal audit performance and / or cost effectiveness where it is appropriate to do so.

- 5.11.5.6 **Review summary internal audit reports and the main issues arising, and seek assurance action is taken where necessary by:**
- a noting the Chief Internal Auditor's summary of key findings for audit reviews that have resulted in an unsound or unsatisfactory audit opinion being issued which will be included in his / her interim audit assurance reports and commenting on the management response to those issues as appropriate.
  - b the Chief Internal Auditor providing the Chairman of the Audit and Governance Committee with a copy of audit review reports with an unsound, unsatisfactory or marginal audit opinion.
  - c the Chief Internal Auditor providing the Chairman of the Audit and Governance Committee with written confirmation of audit review reports with a satisfactory or good audit opinion.
- 5.11.5.7 **Receive the annual report of the Head of Internal Audit by:**
- a reviewing the Chief Internal Auditor's annual report to support the Annual Governance Statement.
  - b reviewing the interim and final audit assurance reports prepared for the Committee by the Chief Internal Auditor.
  - c receiving assurance on the opinion given on the overall adequacy and effectiveness of the Council's control environment.
- 5.11.5.8 **Consider the reports of external audit and inspection agencies and take appropriate action where relevant to the committee remit by:**
- a reviewing and commenting on external audit and inspection reports.
  - b reviewing and commenting on the management response to external audit and inspection recommendations.
  - c monitoring progress in implementing the management response to external audit and inspection recommendations.
- 5.11.5.9 **Ensure there are effective relationships between external and internal audit, inspection agencies and other relevant bodies by:**
- a reviewing and agreeing the external auditor's annual audit plan, including the annual audit fee.
  - b receiving regular update reports on progress from the external auditor.
  - c meeting privately with the external auditor once a year, if required.
  - d monitoring the effectiveness of relationships between the external and internal auditors to ensure that the combined value of the two audit processes is maximised.
- 5.11.5.10 **Ensure the organisation actively promotes the value of the audit process by:**
- a providing effective and objective scrutiny of the Council's governance arrangements, that are relevant to the committee's remit.
  - b reviewing and commenting on any issue referred to it by the Chief Executive, a Director, or Cabinet Member or by any Herefordshire Council body.



- c reviewing and making recommendations on any proposed amendments to the Council's code of corporate governance, financial procedure rules, contract and procurement procedure rules, scheme of delegation, budget policy, procedure rules or governance arrangements.

**5.11.5.11 Review the financial statements, external auditor's opinion and reports to members, and oversee management action in response to the issues raised by external audit by:**

- a receiving biannual forecasts of revenue and capital outturn, satisfying itself that appropriate and timely measures are in place to ensure compliance with paragraph 4.7.10 of the Council's Financial Procedure Rules (Part 4 section 7).
- b reviewing and approving the annual statement of accounts, commenting where appropriate on any issues that need to be brought to the attention of the Council.
- c Reviewing and approving the annual letter of representation.
- d Receiving the external auditor's annual governance letter and commenting on the management response to any recommendations made.

**5.11.5.12 Other matters not covered by CIPFA's latest best practice guidance for audit committees:**

- a the Committee's meetings shall follow the principles of scrutiny i.e. no party whip shall be applied and a constructive, evidence based approach will be used.
- b the Committee shall ensure that its members receive adequate training on the areas covered by the Terms of Reference.
- c the Committee's members will ensure that any sensitive or confidential information obtained as a result of membership of the Committee is treated as such.
- d the Committee shall receive assurance from the Chief Internal Auditor that officers are complying with the Council's procurement policy and processes in all respects.
- e the Committee shall comment on the scope, depth and value for money of external audit.
- f in consultation with the Section 151 Officer, the Committee shall call for reviews/reports where the committee has identified significant gaps in the Council's internal control and governance processes, and develop the scope of these reviews with the Chief Internal Auditor.
- g the Committee shall review its effectiveness and Terms of Reference on an annual basis.
- h the Committee shall monitor progress in developing joint internal audit arrangements on matters of mutual or shared interest with NHS Herefordshire (the Primary Care Trust).
- i the Committee will contribute to the Council's programme of improvement in the standards of accuracy, clarity, comprehensiveness and conciseness in the Council's financial and associated documentation.