

Title of report: **Re-thinking governance**

Meeting: Council

Meeting date: 20 May 2022

Report by: Chairperson of the Audit and Governance Committee

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To approve amendments to the council's constitution recommended by the audit and governance committee at its meeting held on 10 May 2022.

Recommendation(s)

That:

- a) **To approve amendments to the audit and governance committee functions as set out in Appendix 1 and the two proposed changes to the constitution set out in paragraphs 9 and 10 with implementation with effect from 20 May 2022; and**
- b) **authority be delegated to the Director of Governance and Legal Services to make technical amendments (as required by law, grammatical, formatting, and consistency) necessary to finalise the revised constitution.**

Alternative options

1. To reject the proposed amendments and retain the current constitution and policies unamended: this is not recommended because the amendments have been proposed in order to either:
 - a) Improve clarity; or

b) Improve the efficiency and effectiveness of the council's governance arrangements

2. To propose alternative or additional amendments; it is open to the committee to propose that consideration be given to alternative or additional amendments. However additional time may be required in order for the working group to assess the impacts of any such proposals and to consult with the working group as necessary.

Key considerations

3. On 11 October 2019, Council resolved to review its governance arrangements to investigate and explore options for the future. The following guiding principles were set by the Council:
- To maximise member engagement and participation in decision-making.
 - To ensure decision-making is informed, transparent and efficient.
 - To welcome public engagement.
 - To enable members and officers to perform effectively in clearly defined functions and roles.
 - To assess any resource implications for any proposed changes.
4. The review was undertaken by a cross-party member working group, the current membership of which is

Member	Substitute member	Political Group	Function
Councillor Bolderson		Conservatives	Audit and Governance
Councillor Bartlett	Councillor Toynbee	Green	Scrutiny
Cllr Harvey		Independents for Herefordshire	Planning and Regulatory
Councillor James		Liberal Democrat	Employment Panel
Councillor Matthews	Councillor M Jones	True Independents	Scrutiny

5. On 9 October 2020, Council resolved upon recommendation from this committee: "having regard to the work undertaken by the Re thinking Governance working group and the recommendation of audit and governance committee, a hybrid cabinet model of governance is approved with implementation from annual council in May 2021."
6. At the Council meeting on 4 March 2022, council approved a number of changes to the constitution following the recommendation of the audit and governance committee meeting on 25 January 2022.
7. At that time, there was still work to be concluded on the audit and governance committee functions. This report deals with those outstanding matters.
8. On 15 March 2022, the re-thinking governance working group considered audit and governance committee functions and these revised functions as a clean version are attached at Appendix 1. A tracked change version of the changes to the function are attached at Appendix 2.
9. As part of the re-thinking governance working group meeting, it was agreed that treasury management function should sit within the remit of the new scrutiny management board as that board will also be considering the council's budget. On this basis, the re-thinking governance

working group are recommending that treasury management be added to the scrutiny management board functions at Part 3, Section 4, Scrutiny Functions.

10. For information, there will be a technical change in relation to the membership of Standing advisory council on religious education (SACRE):

Article 9, Joint Arrangements: insert following groups into Group A at 2.9.21:

One representative of the Hindu faith;
One representative of the Quaker faith;
One representative of Humanism

11. The above amendment is being made in accordance with the Education Act 1996 (as amended) and at the request of the SACRE committee.
12. At the meeting of the audit and governance committee meeting held on 10 May 2022, the following further changes to the functions of the audit and governance committee were resolved to be recommended as follows and have been included within Appendix 1:

3.5.11 The words '~~as necessary~~' be removed;

3.5.13 The final sentence of paragraph one be amended to '... The minutes of the meeting should state in what capacity the independent ~~person~~ *expert* is voting' and a definition be provided in relation to the independent expert;

3.5.14 The paragraph be amended to 'The Committee will meet approximately 8 times a year and a quorum of three elected members (~~including the Chair or Vice Chair~~) is required for decisions of the Committee to be ratified.';

3.5.15 (a) The paragraph be amended to 'review *and examine, and where required in depth examine*, matters relating to internal audit, external audit, risk management, governance, assurance statements, anti-fraud and anti-corruption arrangements as well as any other function to meet the Council's Audit Committee requirements';

3.5.30 (i) The paragraph be amended to 'To give its opinion, as appropriate, to Herefordshire Council, the Clinical Commissioning group or NHS commissioning Board, as to whether they are discharging their duty to have regard to any assessment of relevant needs prepared by the Council, the Clinical Commissioning Group or NHS commission Board in the exercise of their functions.';

Community impact

13. Corporate governance is the term used to describe the systems, processes, culture and values the council has established to ensure we provide the right services, to the right people in a timely, open, and accountable way. Good corporate governance includes encouraging better informed longer-term decision making using resources efficiently, and being open to scrutiny with a view to improving performance and managing risk. Periodic reviews of the models of governance adopted by the council and the established processes and culture are valuable ways in which the council can demonstrate how the council uphold the code of corporate governance.
14. This work forms part of a formal corporate delivery plan, 2020 to 2022, commitment to: Complete the review of governance arrangements and implement new arrangements and constitution. This report brings the audit and governance committee up to date with progress toward that objective.

15. The council is responsible, as a corporate parent, for providing the best possible care and safeguarding for children who are looked after by the council, and as part of this must consider the impact of decision making on looked after children and care leavers. Any review of models of governance and mechanisms for stakeholder engagement in decision-making must consider how this responsibility may best be discharged.

Environmental impact

16. The development of a revised governance model will seek to minimise any adverse environmental impact and will actively seek opportunities to improve and enhance environmental performance.

Equality duty

17. Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
18. The public sector equality duty (specific duty) requires the council to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services. Any review of governance models and decision making processes must ensure this duty is demonstrably upheld and promoted.

Resource implications

19. There are no resource implications with this decision. The resource allocation for the revised governance arrangements were approved by Council on 4 March 2022.

Legal implications

20. The council is required to have a constitution. The proposed new model will provide the basis for changes to the current constitution to be adopted and implemented at the next annual council meeting.

Risk management

Risk / opportunity	Mitigation
Insufficient time to make all operational changes	Project management support in place to ensure milestones are met
Structural changes do not make cultural changes needed to strengthen function of all committees	Training on the refreshed model and functions of scrutiny has been procured by Centre For Governance and Services and training for A&G committee on their refreshed terms of reference will also be

	procured with an effectiveness review in a year's time
Insufficient time to re-present the constitution	This is not time critical
Changes do not meet the design principles agreed by Council	A review will be undertaken in May 2023

21. These are all operational risks that will be managed by the project lead from the programme management office and may be escalated to the Law and Governance risk register in accordance with the risk management policy.

Consultees

22. All political groups are represented in the working group. The non-aligned member declined to participate in the working group.

Appendices

Appendix 1 - Part 3 Section 5 Other Functions, Audit and Governance Committee Functions – clean version

Appendix 2 - Part 3 Section 5 Other Functions – tracked change version

Background papers

None identified.