

Committee: Constitution Working Group

Agenda Item

Date: 22 March 2017

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Title: Proposal for changes to Audit and Performance Committee

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Item for decision:
yes

Summary

1. This report sets out a proposal for changes to the status and remit of the Performance and Audit Committee. Whilst responsibility is assigned to Performance and Audit for audit matters, this is not really a scrutiny function. There is also no direct responsibility at committee level for corporate governance. The proposal is (a) for Performance and Audit Committee to take on responsibility for governance (with a working title of "Governance, Audit and Performance Committee"); (b) for the Committee to become an ordinary committee of the Council, rather than a scrutiny committee; and (c) for the Committee to take on the work of the Constitution Working Group and the Electoral Steering Group, with these two groups being wound up.

Recommendations

2. That members consider the proposal and, if they agree, recommend its adoption to full Council.
3. If the proposal is recommended, to include a request for the Monitoring Officer to make necessary consequential drafting changes to the Constitution.

Financial Implications

4. None,

Background Papers

5. There are no background papers.

Impact

- 6.

Communication/Consultation	This report will be sent to members of the Performance and Audit Committee and to members of the Scrutiny Committee. Any comments received by the date of the CWG meeting will be reported. Any comments received later will be reported to Council if the proposal is recommended for
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	adoption.
Community Safety	None.
Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	None.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

7. The current position

- 7.1 Responsibility for Scrutiny within the Council is shared between the Audit and Performance Committee and the Scrutiny Committee.
- 7.2 There is no governance committee as such, although there is a Constitutional Working Group that makes recommendations to the Council about changes to the Constitution.

8. Legal requirements for scrutiny

- 8.1 The Council is obliged to have at least one scrutiny committee. The scrutiny committee (or scrutiny committees between them) must have power:
- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,
 - (b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,
 - (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,
 - (d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,
 - (e) to make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of that area .

The Council's Scrutiny Committee discharges these functions and meets the Council's legal obligation to make provision for Scrutiny.

- 8.2 With limited exceptions, scrutiny committees may not take on a role that goes beyond these matters. Their role is that of scrutiny and not one of making decisions on behalf of the Council.

9. Performance and Audit Committee

- 9.1 The terms of reference of the Performance and Audit Committee are, in summary:

- To monitor the performance of the Council and progress against improvement plans;
- To oversee the Council's internal audit and risk functions;
- To receive and approve external audit reports;
- To scrutinise and approve the annual statement of accounts;
- To make reports and recommendations to the executive, committees and the Council as a whole on its performance management and corporate governance as appropriate.

- 9.2 Whilst the first and fifth of these could be treated as scrutiny functions, they can also be carried out by an ordinary committee of the Council. However, the approval of external audit reports and the approval of the annual statement of accounts are not. They should be discharged either by full Council or by an ordinary committee of the Council acting under delegated powers.

- 9.3 The committee's role in making recommendations on corporate governance overlaps with that of the Constitution Working Group.

10. The Constitution Working Group

- 10.1 The Constitution Working Group has two roles:

- To monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect; and
- To make recommendations to the Council concerning changes to the Constitution. The Constitution provides that changes to the constitution may only be made by the Full Council after consideration of the proposal by the Constitution Working Group.

- 10.2 These are both useful roles in terms of governance. However, as it operates as a working group, it does not operate under the full transparency rules that apply to a committee. Given the significant governance role of CWG, there is an argument that it should conduct its business as a committee, rather than as a working group.

10.3 As mentioned in para. 8.3, the role of the Constitution Working Group overlaps with that of the Performance and Audit Committee. Officers suggest that a reconstituted Governance, Audit and Performance Committee could take on the full role of the Constitution Working Group, which could be disbanded.

11. Electoral Working Group

11.1 The Electoral Working Group meets occasionally to advise the Council on matters relating to elections, electoral registration, boundary and polling station reviews and related matters. Electoral matters are an aspect of governance and the proposal is to bring them within the expanded remit of the Committee and to wind up the working group.

12. The Council

12.1 In the absence of a governance committee, full Council is directly responsible for a significant number of governance matters. These are set out in full in the appendix to this report. Whilst many of these functions may rest appropriately with the full Council, it will be difficult for full Council to give their discharge the sort of detailed consideration that is possible in committee.

12.2 Further work would be needed to prepare a scheme of delegation, indicating clearly the matters reserved to Council and those delegated to the Committee.

Risk Analysis

11.

Risk	Likelihood	Impact	Mitigating actions
That the terms of reference of an expanded Governance, Audit and Performance Committee are insufficiently clear.	2	3	Approval by the Council of detailed terms of reference and a scheme of delegation at a future meeting.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Appendix

Functions of Full Council

- 1 Duty to appoint an electoral registration officer
- 2 Power to assign officers in relation to the requisitions of the registration officer
- 3 Duty to appoint a Returning Officer for local government elections
- 4 Duty to provide assistance at European Parliamentary Elections
- 5 Power to pay expenses properly incurred by electoral registration officers
- 6 Power to make temporary appointments to parish councils
- 7 Power to submit proposals to the Secretary of State for a pilot scheme for local elections
- 8 Duty to consult on a change of scheme for elections
- 9 Power to alter the years of ordinary elections of parish councillors
- 10 Functions relating to the change of name of an electoral area
- 11 Power to change the name of the district
- 12 Power to confer the title of Honorary Alderman or to grant the freedom of the district
- 13 Power to petition for a charter to confer borough status
- 14 Power to make, amend, revoke, re-enact or enforce byelaws
- 15 Power to promote or oppose local or personal bills
- 16 Functions relating to local government pensions etc
- 17 Power to make standing orders including standing orders as to contracts
- 18 Power to appoint staff and to determine the terms and conditions upon which they hold office
- 19 Duty make arrangements for the proper administration of financial affairs etc under s.151 Local Government Act 1972
- 20 Power to appoint "proper officers"
- 21 Duties with regard to the appointment of a Head of Paid Service and Monitoring Office
- 22 Power to adopt a scheme permitting co-opted members of overview and scrutiny committees to vote under paragraphs 12 and 14 schedule 1 Local Government Act 2000
- 23 Power to make payments or provide benefits in cases of maladministration
- 24 Duty to adopt a code of conduct for members under the Localism Act 2011
- 25 Power to dissolve small parish councils

- 26 Power to make orders for grouping parishes, dissolving groups and separating parishes from groups
- 27 The division of the constituency into polling districts
- 28 Power to divide electoral divisions into polling districts at local government elections
- 29 Powers in respect of holding elections
- 30 Power to fill vacancies on parish councils in the event of insufficient nominations
- 31 Declaration of vacancy in office in certain cases
- 32 Giving notice of casual vacancies in office
- 33 Duties relating to publicity under the Local Government and Public Involvement in Health Act 2007
- 34 Duties relating to notice to the electoral commission
- 35 Power to change the name of a parish
- 36 All powers and duties exercisable in connection with community governance reviews and petitions