

**MODERN LOCAL GOVERNMENT GROUP – 8 JULY 2010**

**ANNUAL REVIEW OF THE PERFORMANCE AND GOVERNANCE COMMITTEE'S TERMS OF REFERENCE**

Report of the: Corporate Resources Director

Also considered by: Performance and Governance Committee - 20 April 2010  
Council – 20 July 2010

Status: For Consideration

Key Decision: No

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**Executive Summary:** This report has been produced as requested by the Committee's work plan. It recommends amendments to the Committee's procedures which would make them more user-friendly, reduce repetition and clarify some inconsistencies. There are also some amendments suggested which are designed to better reflect the current practice of the Committee and take account of best practice guidance.

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**Head of Service** Head of Legal and Democratic Services

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**Recommendation:** It be RESOLVED that the amendments to "Part 6 - Performance and Governance Committee" (Appendix A) be supported and that Council be recommended to amend the Constitution accordingly.

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**Introduction**

- 1 This report has been produced, as requested within the Committee's work plan, as part of the annual review of the Committee's role and terms of reference. This work has been undertaken in consultation with the Chairman of the Performance and Governance Committee and gives consideration to the most up to date thinking and best practice.
- 2 The Performance and Governance Committee has been operating since 2007. The Committee has had responsibility for both monitoring the organisation's performance and ensuring that it has robust procedures in place to ensure effective and ethical governance.
- 3 It is recommended as best practice by the Chartered Institute of Public Finance and Accountancy (CIPFA) that councils establish an audit committee. The Performance and Governance Committee has been undertaking the role of audit committee, amongst its other functions, since being established in 2007 and its approach on performance management has been commended by external assessors.

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- 4 A final version of the new, proposed Part 6 of the Constitution is attached at Appendix A. A version showing the tracked changes is attached at Appendix B.

**General Approach**

- 5 This report does not recommended any significant changes to the Committee's terms of reference. Instead, it has focused on procedural matters. There is a significant amount of repetition and duplication in the Committee's current procedures and there is an opportunity to simplify the document and make it much more user friendly. There were also some inconsistencies within the document which have been clarified.
- 6 The proposed amendments to the Committee's procedures create a much shorter document, with procedures grouped together under topic specific headings to aid clarity. Any repetition of points in the document has been removed and some parts of the document have been reordered to improve the overall layout.
- 7 It would be the expectation of the Council's external auditors that the Council would have regard to best practice, which in this case is recognised as CIPFA's guidance document, "A toolkit for Local Authority Audit Committees". This stresses CIPFA's view that the audit committee should be independent from both the executive and scrutiny functions. The Performance and Governance Committee has in practice operated separately from both since its establishment in 2007. However, to ensure that the Committee's procedures reflect the best practice approach which the Committee has always followed, a number of amendments have been proposed which are designed to better reflect this independence in the procedures. In order to allow the Committee decision-making powers, for example in relation to approving the Council's statement of accounts, an amendment has been made to remove the call-in process from the Committee's procedures, which is a process that appears to be solely for Overview and Scrutiny Committees. This should not affect the manner in which the Committee continues to operate, as the Committee has never used this process since it was established and the Committee still has the freedom and flexibility to review any performance and governance matter or decision that falls within its terms of reference.

**Minor Amendments and Clarifications**

- 8 A number of minor amendments and clarifications have been made throughout the document. In some places, new powers have been suggested to enhance the Committee's ability to fulfil its role. The suggested amendments are as follows:
  - (a) New para. 2.1 – This has been amended to make clear that the Chairman of the Council should not be a member of the Committee, in accordance with the Council's current practice.
  - (b) New para. 2.2 and 2.3 – Although the Committee has not chosen to do so, its procedures do allow it to recommend the appointment of two

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non-voting co-opted members. The provisions have been reworded to make it clear that these would be in addition to the 14 elected members.

- (c) Section 3 – These procedures have been clarified and future-proofed, to cover a situation where only one political group is represented on the Council.
- (d) New para. 4 (a) – This has been updated to reflect the new Comprehensive Area Assessments.
- (e) New para 5.1 – There is a suggested amendment to the procedure rules which would mean that any sub-committees/working groups would cease to operate at the next Annual Council meeting, unless they are given a fixed term by the Committee. This provides an opportunity for the Committee to review the work of any sub-committees/working groups at least annually. The Committee may wish to undertake such a review at its last meeting of the Municipal Year.
- (f) New paras 5.7 and 5.8 – There is a slight amendment proposed to this section to ensure that the Committee is only asked to discuss matters within its terms of reference.
- (g) New paras 5.8, 5.9 and 5.10 – These have been amended to make clear that the Committee can, if appropriate, make recommendations to and receive topic requests from any Council Committee.
- (h) New paras 5.9 and 5.10 – These have been amended to reflect the Committee's current practice. The Committee's recommendations are normally contained within its minutes and are not part of a formal report. It also clears up some inconsistency within the document by making it clear that the Committee should usually have its recommendations considered and responded to within two months – this fits in well with the Committee's current meeting cycle.
- (i) New paras. 5.11 – The power to require officers and Members to attend the Committee is proposed to be extended to the Chair of any Council Committee, to allow this Committee to fully cover its duties. It is proposed that the rules on what can be asked are simplified to anything within the Committee's terms of reference and the interviewee's remit. This follows the usual practice at the Committee's meetings.
- (j) New para 5.12 – This has been simplified to make clear that the Committee can ask people, other than Members and senior officers, to address it and answer questions on matters within the Committee's terms of reference.

**Options (and Reasons for the Recommendation)**

- 9 The proposed amendments to the Committee's procedures will mean that they are shorter and more user-friendly than before. They will also better reflect the best practice approach under which the Committee operates.

## **Key Implications**

### Financial

10 None directly arising from this report.

### Community Impact and Outcomes

11 The Performance and Governance Committee plays a very important role in ensuring that the Council continues to operate under the highest standards of governance. It also plays a key role in ensuring that the Council continues to perform to the highest standards. The proposed amendments to the Committee's procedures will make them more user friendly whilst maintaining this important role.

### Legal, Human Rights etc.

12 The proposed amendments would comply with relevant legal requirements.

## **Conclusions**

13 The proposed amendments to the Committee's procedures will mean that they are shorter and more user-friendly than before. They will also better reflect the best practice approach under which the Committee operates. Their adoption is therefore recommended to the Committee.

## **Risk Assessment Statement**

14 The Committee needs to have clear and effective written procedures to ensure that it continues to operate effectively. The proposed amendments would provide this, whilst complying with relevant legal requirements.

**Sources of Information:** None.

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