

**GOVERNANCE ISSUES
(Report by the Head of Administration)**

1. INTRODUCTION

- 1.1 The Council's Constitution makes provision for an annual review of its content which is in the course of being finalised for the current year. The report to the Standards Committee meeting held on 24th March (paragraph 4.9) made reference to the need to determine an appropriate forum for certain governance and financial responsibilities. This is dealt with in this report.

2. CONSTITUTIONAL BACKGROUND

- 2.1 The legislation which determines the Constitution divides the Council's functions into two distinct elements – executive (which is the responsibility of the Cabinet) and non-executive. With the exception of those matters reserved to the Council by legislation, the Council can delegate decision making to a committee, panel etc. However, such powers cannot be delegated to the Cabinet (which may deal with executive powers only), nor to the Overview and Scrutiny Panels whose terms of reference are prescribed by legislation.
- 2.2 In the absence of a suitable alternative forum, certain non-executive functions therefore have been included within the terms of reference of the Standards Committee. Members will be aware that the workload of that Committee may increase shortly with the implementation of Regulations for the local investigation and determination of complaints for breach of the Members Code of Conduct. The possibility of the Committee also being chaired by an independent person as opposed to a district councillor also suggests that some of the duties within the Committee's terms of reference might more appropriately be located elsewhere.

3. RECENT DEVELOPMENTS

- 3.1 Legislative change in recent months has meant that decisions on certain Council Tax issues previously reserved to the Council can now be delegated. In addition the issue of new Accounts and Audit Regulations has placed certain responsibilities on Members and has brought forward the date when the financial accounts must be completed and approved. These can be summarised as follows:-

- ◆ the Local Government Act 2003 enables the Council to delegate the annual resolution to formally approve the Council Tax base for the following year;
- ◆ the date for approval of the accounts has been brought forward by the Accounts and Audit Regulations progressively by one

month each year to 30th June by 2006. Approval of the accounts can be undertaken either by the Council or delegated to a committee or panel;

- ◆ the Regulations introduce a requirement for Members to consider any matter brought to the attention of the Council by the external auditors; and
- ◆ the Regulations also require the Council to be responsible for ensuring that financial management is adequate and effective and that there is a sound system of internal control.

3.2 A change to the Functions and Responsibilities Regulations has also resulted in decisions relating to the formulation of a plan or strategy for the Council's investments not being the responsibility of the executive.

4. A NEW PANEL

4.1 Having regard to the changes referred to, the Council is invited to consider the establishment of a new Corporate Governance Panel comprising 7 Members with the following non-executive terms of reference –

- ◆ ensuring that the financial management of the Council is adequate and effective;
- ◆ ensuring that the Council has a sound system of internal control which facilitates the effective exercise of the Council's functions including arrangements for the management of risk;
- ◆ considering the Council's Code of Corporate Governance and approving the annual statement in that respect;
- ◆ approving and modifying the terms of reference and strategy for internal audit;
- ◆ commenting on the annual internal and external audit plans;
- ◆ receiving half-yearly and end of year reports on progress in delivering the annual internal audit plan;
- ◆ receiving and considering the external auditor's annual management letter;
- ◆ approving the Council's statement of accounts;
- ◆ consideration of any matters arising from the audit of accounts;
- ◆ approval of the Council Tax base;
- ◆ determination of the Council's complaints procedure, monitoring compliance with the procedure, compensatory payments to complainants and formulation of recommendations to the Cabinet or Council on any action to be taken as a consequence;
- ◆ considering reports by the Local Government Ombudsman, approval of compensatory payments to complainants and the formulation of recommendations to the Cabinet or Council on any remedial action to be taken as a consequence;
- ◆ adoption and monitoring of a policy and procedure for disclosure of information under the Public Interests Disclosure Act 1999 (whistleblowing);
- ◆ oversight of the Council's Constitutional arrangements and advising the Council of any changes that may be desirable.

4.2 Corresponding changes will need to be made to the terms of reference of the Standards Committee which currently include several of the functions referred to above. If a Panel is to be established, it is likely that it would need to meet on three occasions each year at key dates

in the financial calendar, and otherwise as required. It is also suggested that in terms of Panel membership, it should be a requirement for it to include a minimum of one but no more than three Members of the Cabinet.

5. CONCLUSION AND RECOMMENDATIONS

5.1 The current constitutional review and recent legislative change have highlighted the need for the creation of an additional panel to deal with the non-executive issues of audit, governance and finance which cannot conveniently be delegated elsewhere within the Council's structure.

5.2 It is therefore


RECOMMENDED

- (a) that a Corporate Governance Panel be established with the terms of reference listed in paragraph 4.1 above;
- (b) that the Panel comprise 7 Members including a minimum of one and a maximum of three Members of the Cabinet;
- (c) that the terms of reference of the Standards Committee be amended to omit those other duties allocated to it which do not relate to the Members Code of Conduct as listed on page 28 of the constitution; and
- (d) that Article 4 of the constitution relating to the full Council be amended to delete the reference in paragraph 1(b) in relation to the Council Tax Base and the insertion of a reference to the control of the Council's investments.

BACKGROUND PAPERS

The Council's Constitution.

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