

Report to the Constitution & Member Services Standing Scrutiny Panel



Date of meeting: 8 November 2011

Report of: Assistant to the Chief Executive

Subject: Audit and Governance Committee – Appointment of Portfolio Holder Assistants

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Recommendations:

- (1) To consider the views of the Audit and Governance Committee at its meeting on 22 September 2011 on whether Portfolio Holder Assistants should serve on that body;
- (2) To consider whether the provisional proposals agreed at the last meeting of this Panel should be submitted to the Overview and Scrutiny Committee and the Council for approval, namely:
 - (a) that Portfolio Assistants, except those involved with a Portfolio dealing with the Council's finances, be eligible for appointment to the Audit and Governance Committee, subject to careful consideration by the Councillor concerned on the need to declare a prejudicial interest in any matter relating to the relevant Portfolio which comes before that Committee;
 - (b) this proposal to be reviewed after one year or if there is a change in the roles of Portfolio Holder Assistants or the Audit and Governance Committee;
 - (c) the designation "Deputy Portfolio Holder" be changed to "Portfolio Holder Assistant"; and
 - (d) consequential changes to the Constitution.
- (3) To consider whether to recommend to the Overview and Scrutiny that the Standards Committee be asked to issue advice to Portfolio Holder Assistants on how such conflicts of interest should be dealt with;
- (4) To note that the Audit and Governance Committee intends to discuss further the following matters relating to its own constitution:
 - (a) terms of appointment for independent members;
 - (b) method of appointing Councillor members of the Committee (including pro rata rules and appointment by Council rather than political groups);

- (c) **whether the Committee should be increased in size;**
- (d) **whether there should be a majority of independent members;**
- (e) **whether there should be separate Audit and Governance Committees.**

1. Introduction

- 1.1 At the last meeting, the Panel agreed provisional proposals for reviewing the constitution of the Audit and Governance Committee to clarify whether a Portfolio Holder Assistant can be a member of that body. These provisional proposals are set out in recommendation (2).
- 1.2 The Panel also decided to consult the Audit and Governance Committee on the provisional proposals before reporting to the Overview and Scrutiny Committee and the Council on changes to the Constitution.

2. Consultation with the Audit and Governance Committee

- 2.1 The Committee reviewed the Panel's proposals at its meeting on 22 September 2011. The Committee broadly accepted that, on a trial basis of one year, its membership could include Portfolio Holder Assistants with the exception of any Assistants associated with a portfolio dealing with the Council's finances. However, a number of reservations were also expressed as follows:
 - (a) although there was currently no legal rule which excluded portfolio holder assistants, there was a preference to avoid conflicts of interest which might arise unless those conflicts were very carefully managed;
 - (b) doubts were expressed that the Panel's comments regarding the degree of involvement in the portfolio and the particular skills of individuals really does offset the possible damage to the public perception of whether the Committee was truly independent;
 - (c) there was a need for clear advice on conflicts of interest so that portfolio holder assistants who had been involved in matters to be discussed by the Committee know exactly how to respond;
 - (d) worries were expressed that, with a membership of only 5, the withdrawal of a Councillor due to a conflict of interest would reduce the Committee to 4 members or less, a possibility which would cause problems in carrying out their duties;
 - (e) it was acknowledged that the involvement of portfolio holder assistants might vary greatly between portfolios and individual topics; and
 - (f) it was accepted that the Committee should be able to use the talents of individual members and reducing the pool of Councillors available by excluding portfolio holder assistants, could be counter-productive.
- 2.2 The Council's external auditor attended the meeting and commented that any special skills contributed by Councillors to the work of the Audit and Governance Committee could outweigh a portfolio holder assistant being a member.

3. Further Discussion

- 3.1 Recommendation (4) sets out the content of further reviews being discussed by the Committee. A discussion paper will be submitted to a future meeting of the Audit & Governance Committee and any further constitutional changes which might be requested would be referred to this Panel.
- 3.2 These ideas arose because it is now some years since the Audit and Governance Committee was established. This would be the first overall review of its operations. The Committee was, however, also aware of Government plans for introducing statutory audit committees.

4. Constitution

- 4.1 The Panel is asked to review its provisional proposals and if deciding to proceed, it is recommended that the main changes should be made to paragraph 11.6 of Article 11 (Audit and Governance Committee). It is suggested that this be amended as follows (shown in underlined bold text)

“11.6(a) (Councillor Members)

Councillors appointed to the Audit and Governance Committee may not also be members of the Cabinet, any Cabinet Committee or any Panel appointed by the Overview and Scrutiny Committee with responsibility for reviewing the Council’s finances or financial procedures.

A Portfolio Holder Assistant (other than any assistant involved in any portfolio dealing with the Council’s finances) appointed by the Leader of the Council shall be eligible for appointment to the Committee”

- 4.2 Consequential changes to other parts of the constitution will be made by the Assistant to the Chief Executive.
- 4.3 Advice on Portfolio Holder Assistants and how to deal with conflicts of interest should be referred to the Standards Committee.