

Report to Council

Date of meeting: 13 December 2011



Report of: Overview and Scrutiny Committee

Chairman: Councillor R Bassett

1. Audit and Governance Committee – Appointment of Portfolio Holder Assistants

Recommending:

(1) 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 of the need to declare a prejudicial interest in any matter relating to the relevant Portfolio which comes before that Committee;

(2) That the proposal set out in (a) above be reviewed after one year or if there is a change either in the roles of Portfolio Holder Assistants of the Audit and Governance Committee;

(3) That the designation "Deputy Portfolio Holder" be changed to "Portfolio Holder Assistant"; and

(4) That paragraph 11.6(a) (Councillor Members) of Article 11 of the Constitution (Audit and Governance Committee) be amended to read as follows (changes in bold text underlined):

"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"

(5) That the Standards Committee be asked to issue advice to Portfolio Holder Assistants on how such conflicts of interest should be dealt with and to consult with the Audit and Governance Committee before it is issued;

- (6) That the proposed review by the Audit and Governance Committee of its own constitution including the following specific matters be noted:
- (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; and
 - (e) whether there should be separate Audit and Governance Committees; and
- (7) That any review of the Constitution which results from (5) above be added to the work programme for this Panel; and
- (8) That the Audit and Governance Committee be advised of this Panel's view that the number of its members should be increased.

1. Our Constitution and Members Services Panel were requested to review the constitution of the Audit and Governance Committee to clarify whether a Portfolio Holder Assistant can be a member of that body.

CONSULTATION WITH THE AUDIT AND GOVERNANCE COMMITTEE

2. The Audit and Governance Committee reviewed our proposals at its meeting on 22 September 2011. The Committee 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 primarily with the Council's finances despite a number of reservations which were 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.

3. The Council's External Auditor also attended the meeting and commented that any special skills contributed by Councillors to the work of the Audit and Governance Committee might outweigh the presence of a portfolio holder assistant as a member.

FURTHER REVIEW BY THE AUDIT AND GOVERNANCE COMMITTEE

4. Recommendation (6) makes reference to a further review being planned by the Committee. A discussion paper will be submitted to a future meeting of the Audit & Governance Committee and we are recommending that any further constitutional changes requested should be referred to this Panel and added to its work programme.

5. This review arose because it is now some years since the Audit and Governance Committee was established and this would be the first overall review of its operations. Government plans for introducing statutory audit committees are also relevant.

CONSTITUTION

6. Recommendation (4) sets out the changes to the Constitution (Article 11, paragraph 11.6) which follows from our recommendation. Consequential changes to other parts of the Constitution will be made by the Assistant to the Chief Executive.

7. We have accepted the view of the Audit and Governance Committee that advice to Portfolio Holder Assistants and how to deal with conflicts of interest should be given by the Standards Committee. We are recommending that there should be consultation between the two Committees before that advice is issued.

DEPUTY PORTFOLIO HOLDERS

8. We are recommending that the term "Deputy Portfolio Holder" should be replaced by "Portfolio Holder Assistant"

9. This is because we feel that "Deputy Portfolio Holder" is a misnomer in that the nominated Councillors are not able under the legislation, to deputise for a Cabinet member. In the event of a Cabinet member being unable to act, it would be the responsibility of the Leader of Council to re-allocate the function to another Cabinet member, including the Leader. We feel that "Portfolio Holder Assistant" more accurately reflects the role.

10. We recommend as set out at the commencement of this report.