

**Report of Audit and Governance
Committee**



Report reference: AGC-016-2011/12
Date of meeting: 9 February 2012

**Epping Forest
District Council**

Portfolio: Finance & Economic Development.

Subject: Audit and Governance – Review of Constitution and Terms of Reference

Responsible Officer: Ian Willett (01992 564243)

Democratic Services Officer: Gary Woodhall (01992 564470)

Decision Required:

(1) To consider the following review items identified at the meeting on 22 September 2011 and determine whether any should be pursued:

- (a) a majority of independent members;**
- (b) the number of Committee members;**
- (c) selection of Councillors by the Council and not by political groups;**
- (d) exclusion of the Committee from pro rata membership requirements;**
- (e) Committee to appoint its own Chairman;**
- (f) separation of the Audit and Governance functions into 2 Committees;**
- (g) a fixed term of office for independent members of the Committee; and**

(2) That any changes which require amendments to Article 11 of the Constitution be referred to the Constitution and Members' Services Standing Scrutiny Panel for detailed drafting.

Report:

1. When considering whether the Committee could support a proposal to allow Portfolio Holder Assistants to serve on this Committee, it was agreed that other matters relating to its terms of reference and constitution should be reviewed. (Minute 23 – 22.9.11 refers).

2. The report is drafted on the following broad assumptions:

- (a) that the current Committee is non statutory and can be changed as the Council thinks fit;**
- (b) that as Article 11, which governs the Committee, is part of the Constitution and can only be altered by the Council;**

- (c) that the Government intends to legislate to require statutory Audit Committees to be established, the basis of which is not entirely clear although there is, as yet, no clear timetable for this from the Government; and
- (d) that the most appropriate comparison for this review in the Council's Standards Committee,

3. This report is in the form of a discussion paper on the topics raised at that meeting and are discussed in turn below. The comparisons with the Standards Committee must be treated with a little caution in the Localism Act 2011 is changing the legal basis for those Committee. In future, they cannot have independent members or Parish representatives with voting powers and will become optional rather than mandatory in future.

A Majority of Independent Members

4. Article 11.5 of the Constitution prescribes that the Committee will comprise 3 Councillors and 2 co-opted (i.e. independent members).

5. In comparison, the Standards Committee currently has a membership of 9 persons as follows:

- Councillors: 3;
- Independents 3; and
- Parish Representatives 3.

6. Government consultation on statutory committees states that "there would be a majority of members of the Committee who were independent of the local public body". Other possibilities were identified, however, namely:

- (a) the Chairman and minority of members are independent; or
- (b) the Chairman and a majority of members are independent, all to be appointed separately from the Council.

Number of Committee Members

7. It is usual for Committee membership totals to be odd numbers to ensure that majority votes can be achieved if needed. If more independent members are to be appointed, further recruitment exercises will be necessary. The Constitution and Member Services SSP expressed the informal view that the Audit and Governance Committee should have more members.

8. In the Government consultation, there appears to be no guideline number for membership of a statutory Audit Committee.

Selection of Councillors by the Council, not political groups; excluding the Committee from pro rata requirements

9. The legislation allows the Council to waive pro rata requirements provided no member of Council votes against the proposal. This is a decision which only the Council could make, either annually or as a policy that would operate until altered.

10. If the Committee were excluded from the pro rata requirements then this would allow appointment of the Councillor members to be on a different basis. Although the pro rata requirements could be waived, this would not stop political group nominations coming

forward. It might be possible to link nominations to relevant experience or other criteria relevant to membership of the Committee.

11. The Government consultation foresees that:

(a) the elected members on an Audit Committee should be non executive, (non Cabinet) members; and

(b) at least one of those Councillors should have “recent and relevant financial experience” but it is recommended that if possible, one third of those members should have that experience.

12. The current policy for nominations for the office of Vice Chairman of the Council is based on cross-party support for the most suitable candidate. Previously there had been a system based on Party nominations in various forms, all designed to ensure that the Chairman's office was not associated with just one political group.

Committee to Appoint its Own Chairman

13. This arrangement already operates for the Standards Committee Chairman and Vice Chairman. These positions are to be filled by independent members.

14. Government consultation on a statutory Audit Committee states that the Chairman “should be independent of the local public body”. The same should apply to the Vice Chairman.

Separation of the Current Committee into Two Separate Committees

15. Government consultation is based on a statutory Audit Committee. A number of options were included ranging from an Audit Committee with only one statutory function (engagement or removal of an auditor) to a wider range of responsibilities including:

(a) advice to Councils on procurement/selection of their external auditor;

(b) provision of non audit work by the external auditor;

(c) audit reports and follow up;

(d) advising Councils regarding quality of service;

(e) relationship between internal and external audit*; and

(f) annual report*.

(* covered in current terms of reference.)

16. Matters which are included in the Committee's terms of reference but are not audit-related are:

(a) risk management;

(b) environmental control, anti fraud, risk management and anti corruption arrangements;

(c) the statutory Statement of Accounts; accounting policy and priorities;

- (d) Treasury Management; and
- (e) the Annual Governance Statement.

17. The Committee need to consider whether these roles are sufficient to warrant a separate committee. Some aspects of governance are dealt with by the Standards Committee mainly involving elected members.

Fixed Terms of Office for Independent Members of the Committee

18. Independent members of the Standards Committee serve for 3 years and are eligible for re-appointment. Council and Parish representatives serve for 1 year and are eligible for re-appointment.

19. This Committee expressed concerns about continuity and the need for “fresh blood” from time to time. This could be assisted by independent members having overlapping terms of office. For instance, all terms could be of 3 year's duration but initial appointments might be split between 4 years and 2 years (50% of seats each). After the initial appointment term, those appointed for 2 years would then be eligible for re-appointment for a further 4 years.

20. There is no reference to suggested terms of office in the Government consultation document.

Possible Conflicts of Interest

21. A review of the last 18 months is set out in Appendix 1.

Other Councils

22. The current position is set out in Appendix 2.