

Report of	Meeting	Date
Monitoring Officer	Executive Cabinet Council	29 March 2012 3 April 2012

## REVIEW OF COMMITTEES AND NEW STANDARDS REQUIREMENTS

### PURPOSE OF REPORT

1. To consider a request of the Independent Remuneration Panel under their review of the Members Allowances Scheme, to look at a potential merger of the Overview and Scrutiny and Audit Committees.
2. To consider this request in the light of the new Standards Regime proposed under the Localism Act 2011

### RECOMMENDATIONS

3. That the Independent Remuneration Panel's request that a merger of the Overview and Scrutiny and Audit Committees be considered, be not pursued in order to maintain compliance with CIPFA (Chartered Institute of Public Finance and Accountancy) best practice recommendations that scrutiny and audit should remain independent of each other.
4. That the Audit and Standards Committees be merged to form a Governance Committee overseeing the Council's ethical framework. Under the new standards requirements the Council could operate both functions through one decision making body with Sub Committees established to deal with any standards cases.
5. That in view of the fact that the Council is awaiting further Government guidance on the introduction of a new standards regime, the Council agree that the Monitoring Officer should submit a report to the Executive Cabinet meeting on 21 June which proposes a new Code of Conduct and supporting standards regime in order for there to be a scheme in place for 1 July 2012 as required under the Localism Act 2011. This would require endorsement by Council on 17 July 2012.

<b>Confidential report</b>	Yes	<b>No</b>
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<b>Key decision?</b>	Yes	<b>No</b>
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## REASONS FOR RECOMMENDATIONS (IF ACCEPTED)

6. The recommendations ensure the continued independence of the Audit and Overview and Scrutiny Committees and seek to deal with changes to decision making structures under the new standards regime.

## ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

7. An alternative option would be to ignore CIPFA best practice advice on the merger of committees proposed by the IRP. In relation to standards changes there is no provision for standards committees in future and it is essential that the Council addresses the changes to the standards regime.

## CORPORATE PRIORITIES

8. This report relates to the following Strategic Objectives:

Strong Family Support		Education and Jobs	
Being Healthy		Pride in Quality Homes and Clean Neighbourhoods	
Safe Respectful Communities		Quality Community Services and Spaces	
Vibrant Local Economy		Thriving Town Centre, Local Attractions and Villages	
A Council that is a consistently Top Performing Organisation and Delivers Excellent Value for Money			x

## CURRENT ARRANGEMENTS

9. Currently Overview and Scrutiny Committee meets 8 times a year and has a membership of 14 Councillors. It meets approximately 3 weeks after Executive Cabinet in order to scrutinise the decisions of the Executive which is one of its prime functions, along with reviewing service performance, scrutinise the crime and disorder partnership, undertake scrutiny reviews through task and finish groups and annual budget scrutiny. There is a statutory requirement to have a scrutiny committee – although it can include other functions.
10. Audit Committee meets 4 times a year with a membership of 8 councillors. It looks specifically at audit activity, works closely with the Council's external auditor and oversees the regulatory framework of the Council including corporate governance, risk management, anti fraud and corruption, statement of internal control and customer complaint strategies. It is not a statutory requirement to have an Audit Committee but is recommended good practice.

## CIPFA BEST PRACTICE ADVICE

11. In 2005 the following CIPFA guidance was issued:

*“CIPFA believes that the audit committee must be independent of the executive and scrutiny functions and that it must have a clear right of access to full council, other council groups and committees...”*

*“To be effective the audit committee needs to be independent from executive and scrutiny. The link with the scrutiny function can be beneficial but the*

*ultimate power of the audit committee could be compromised by too much cross-membership. The audit committee needs to retain the ability to challenge the executive on issues and to report to it on major issues and contraventions. Therefore cross-membership should not be the norm, and if it is seen as necessary should be restricted to one member from each”*

In 2006 this position was reaffirmed in a report to Audit Committee and Executive Cabinet which extended the role of Audit Committee to include corporate governance issues. Whilst the role of most committees has changed slightly since 2006, it is advised that CIPFA guidance should continue to be followed and that the independence of audit and scrutiny committees should be maintained.

12. The CIPFA Best Practice advice does not apply however to merging Audit Committee and Standards Committee. As these are both a-political committees who deal with wholly different and unrelated areas of governance for the Council there is an opportunity to bring the two together as a Governance Committee.

## **STANDARDS REGIME UNDER THE LOCALISM ACT**

13. In considering the Council decision making structure it is important to also consider the changes required within the standards regime. A report to Council in December 2011 advised on the changes required under the Localism Act and how these might impact on the way the Council operate its standards function. These include:

- The Standards Board for England ceasing to exist after 31 March 2012.
- The current model code of conduct is revoked. Councils will still be required to adopt a code of conduct based on the Nolan principles of public life and to set up their own schemes for enforcement.
- Predetermination is given a statutory definition, recognising that councillors may be predisposed to approach some definitions on a declared footing and this provision comes into force on 15 January 2012.
- Changes to the role and involvement of independent members in standards committees.
- The Act criminalises some actions around failure to declare and register pecuniary interests.
- Parish Councils are still required to have a code of conduct and District/Unitary Councils to keep the register of interest of parish councillors.
- A detailed timetable for implementation is not yet available but it is thought that most provisions will be in force by the end of March 2012.

14. Regulations are still awaited on some of the detailed requirements and county wide arrangements are being considered. However there are no firm proposals and it is therefore appropriate to look at the committee structure in Chorley which could support the regime. The current Standards Committee currently meets 4 times a year with membership currently 5 councillors, plus 6 independent or parish representatives. There is likely to be a reduced amount of business for the Committee and independent members also have a reduced role. One of the roles of the stand alone Standards Committee was to receive documents and guidance from Standards for England and to authorise quarterly reporting to them. With the abolition of the central Standards body this function will no longer be necessary.

15. Under the new legislation there will be greater flexibility for Local Authorities to determine their own standards regime. The indication from central government is that the investigatory and enforcement regimes can be much abridged versions than those currently in place. Whilst this will not reduce the importance of Standards Committee work it will reduce the

volume and the need for a separate Committee. Any standards matters that need to be investigated can be done so through a sub-committee process of the proposed Governance Committee.

16. It is proposed, although this is subject to any forthcoming guidance as yet unreleased, to have a two stage approach to standards complaints
  - a. Firstly the complaint will be considered by the Monitoring Officer in consultation with an independent member. A decision will be taken on whether the complaint should be pursued. If so a decision will be taken on whether a written warning can be issued. This step will not make a finding as to whether there was a breach, only that the matter is not serious enough to investigate and is analogous with the current assessment process.
  - b. If the complaint is referred for investigation, this will be completed by the Monitoring Officer who will present a report to a Standards Sub-Committee. The obligation will be on the investigating officer to undertake a thorough but proportionate investigation. It is proposed an independent member will chair the Sub-Committee with members of the Governance Committee also sitting.

The subject of any complaint will have the opportunity to contact an independent member to satisfy themselves that the complaint has been dealt with in a suitable manner.

17. It will continue to be a requirement for any Standards regime to be supported by an independent member. Independent members will be appointed following a recruitment process and existing independent members of this authority will not be allowed to serve in the newly constituted regime. It would be envisaged that 2 independent members would be appointed and both would serve on Standards Sub-Committees of the proposed Governance Committee. Neither of the independent members would however sit on the Governance Committee itself. Neither would we seek to appoint Parish Members to sit on Standards Sub-Committees. Although there will be no model code to adopt, it is expected that most authorities (both District and Parish) will adopt codes in substantially the same form.
18. As the Audit and Standards Committees both come under the governance wing of the Council's political management structure there is logic in merging them to form a Governance Committee dealing with all audit business plus general standards business eg the code of conduct. Sub Committees would be arranged to hear cases (rather like the licensing committee operates now) and these would involve independent members as described above.

#### **TIMESCALES FOR ADOPTION OF A NEW STANDARDS REGIME**

19. The Localism Act requires that all local authorities have a new Code of Conduct and supporting regime in place by 1 July 2012. As full guidance is still awaited it is felt appropriate to put in place measures to ensure the Council operates within the new legislation. It is suggested that the Monitoring Officer submits a report proposing a new Code of Conduct and supporting standards regime to the first meeting of the Executive Cabinet in the new Council year on Executive Cabinet on 21 June 2012. This will need to be endorsed by the Council on 17 July 2012.

## SUMMARY

20. In summary, a way forward would be to leave the Overview and Scrutiny Committee in its current form and to merge Audit and Standards into one Governance Committee. This would undertake the current audit committee functions; oversee the introduction of the new Members code of conduct under its ethical framework obligations and appoint panels or subs to hear standards cases. It would still meet four times a year. A new standards regime and Code of Conduct will be drawn up when guidance is received for adoption in the new Council year by Executive Cabinet and then Council.

## IMPLICATIONS OF REPORT

21. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	X	Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

## COMMENTS OF THE STATUTORY FINANCE OFFICER

22. There are not likely to be any financial implications in merging the two committees to create one Governance Committee

## CHRIS MOISTER MONITORING OFFICER

Report Author	Ext	Date	Doc ID
Carol Russell/Chris Moister	5196./5160	27 February 2012	***

Background Papers			
Document	Date	File	Place of Inspection
CIPFA Guidance on Audit Committees	2005		
Localism Act	2012		