

Cyngor Sir CEREDIGION County Council

REPORT TO: Governance and Audit Committee

DATE: 3 June 2021

LOCATION: Remotely via Video Conference

TITLE: **Update Report on changes affecting Governance and Audit Committee in accordance with the Local Government and Elections (Wales) Act 2021**

PURPOSE OF REPORT: To provide the Committee with an update on changes affecting the Committee in accordance with the Local Government and Elections (Wales) Act 2021, updates to the Constitution, and to inform on the requirements for the Mid Wales CJC to have a Governance and Audit Sub-committee.

BACKGROUND:

A Report was presented to the Audit Committee on 24 February 2021 on the Local Government and Elections (Wales) Act 2021 ('the 2021 Act')

(see Act at <https://www.legislation.gov.uk/asc/2021/1/contents/enacted>).

The Report detailed changes affecting the Audit Committee from the 2021 Act

(See report at:

[http://www.ceredigion.gov.uk/cpdl/Democratic_Services_Meetings_Public/B%20LG%20and%20Elections%20combined%20\(s\).pdf](http://www.ceredigion.gov.uk/cpdl/Democratic_Services_Meetings_Public/B%20LG%20and%20Elections%20combined%20(s).pdf) and draft Meeting Minutes, including agreed actions at: <https://www.ceredigion.gov.uk/media/8730/audit-24021-final-s.pdf>).

A Report on the 2021 Act and the changes affecting the Audit Committee was subsequently presented to Council on the 18th of March 2021 where it was resolved to:

- (a) Note the contents of the Report, and relevant implementation dates;
- (b) Note and approve the name change of the Audit Committee to the Governance and Audit Committee, and additional performance and complaints-handling functions effective from 1 April 2021;
- (c) Approve commencement of the recruitment process for independent (lay) members to the Governance and Audit Committee;
- (d) Approve the proposals for the Shortlisting Selection Panel; and
- (e) Approve the Role Description and Person Specification for the recruitment of Independent (lay) members to the Governance and Audit Committee.

(see Report at:

[http://www.ceredigion.gov.uk/cpdl/Democratic_Services_Meetings_Public/I%20-%20Changes%20to%20Audit%20Committee%20per%20Local%20Government%20and%20Elections%20\(Wales\)%20Act%202021.pdf](http://www.ceredigion.gov.uk/cpdl/Democratic_Services_Meetings_Public/I%20-%20Changes%20to%20Audit%20Committee%20per%20Local%20Government%20and%20Elections%20(Wales)%20Act%202021.pdf) and draft Minutes of Council Meeting at: <https://www.ceredigion.gov.uk/media/8975/cofnodion-ddrafft-18032021-saesneg-final.pdf>).

Current Position

The Constitution

The Council's Cross-Party Constitution Working Group is meeting regularly in order to consider any necessary changes to the Constitution, which shall then be proposed to Council for approval.

Changes considered and approved by the Constitution Working Group in a meeting held on 19 April 2021 relating to the Governance and Audit Committee included:

- (a) Updating the terms of reference of the 'Audit Committee' to 'Governance and Audit Committee' throughout the Constitution;
 - (b) Inserting the new duties/roles of the Committee in the Constitution, including preparing wording for inserting into the Constitution in May 2022, which is the commencement date for the duties relating to the Panel Performance Assessments;
 - (c) Preparing wording for inserting into the Constitution regarding the changes to the membership of the Committee (including changes to the Chair/Vice Chair); and
 - (d) Setting out the Voting procedure for the Committee clearly in the Constitution (this shall require further consideration, including by the Democratic Services Committee in the future, and shall be presented to the Governance and Audit Committee in due course).
- (see **Appendix 1(a) to (f)** – draft amendments to Constitution).

Recruitment of Lay Members

In the Audit Committee meeting of 24 February 2021, it was agreed to commence the recruitment process of Lay Members. The shortlisting selection panel has been confirmed, and the recruitment process has commenced, including the advertisement of the roles and by the interviews scheduled for the 27th of May 2021. The recruitment process is, therefore, on schedule per the proposed timeline (see Timeline annexed to above Report to Council). A further update shall be provided in due course.

The Mid Wales Corporate Joint Committee Regulations 2021- Governance and Audit Sub-Committee

The Governance and Audit Committee is also requested to note that, under Part 5 of the 2021 Act, legal entities known as Corporate Joint Committees ('CJCs') are being established and shall employ staff, co-opt members and have their own budget.

The Corporate Joint Committee (General) (Wales) Regulations 2021 ('the General Regulations') came into force on 1 April 2021 and introduce a number of provisions regarding the general administration and governance of CJCs established under Part 5 of the 2021 Act. (General Regulations available at:

<https://www.legislation.gov.uk/wsi/2021/327/made>

Explanatory Memorandum to General Regulations available at:

<https://senedd.wales/media/scqdz5y2/sub-ld14143-em-e.pdf>).

A consultation was undertaken on the draft Corporate Joint Committee Establishment Regulations and the wider regulatory regime which was intended to apply to Corporate Joint Committees.

The CJs will be able to exercise functions relating to strategic development planning and regional transport planning, and will also be able to do things to promote the economic well-being of their areas.

The Mid Wales Corporate Joint Committee Regulations 2021 (‘the Mid Wales CJC Establishment Regulations’) (available at: <https://www.legislation.gov.uk/wsi/2021/342/made>, Explanatory Memorandum available at: <https://senedd.wales/media/11ahrkka/sub-ld14136-em-e.pdf>) has established the Mid Wales Corporate Joint Committee (‘Mid Wales CJC’), whose members include Ceredigion County Council, Powys County Council and the Brecon Beacons National Park Authority.

The Mid Wales CJC Establishment Regulations came into force on 1 April 2021, apart from regulations 11, 12, 13 and 15, which come into force on 30 June 2022. Regulations 11-13 are the functions (see above) granted to the Mid Wales CJC and regulation 15 is the regulation authorising delegation of functions to a sub-committee.

CJCs must set their first budget by January 2022, and undertake the new functions by May 2022.

The Committee is requested to note the following paragraphs of the Schedule to the Schedule to the Mid Wales CJC Establishment Regulations (‘the Schedule’):

Paragraph 16 confirms that the Mid Wales CJC must establish a sub-committee (known as the governance and audit sub-committee), to:

- (a) review and scrutinise the Mid Wales CJC’s financial affairs;
- (b) make reports and recommendations in relation to the Mid Wales CJC’s financial affairs;
- (c) review and assess the risk management, internal control and corporate governance arrangements of the Mid Wales CJC;
- (d) make reports and recommendations to the Mid Wales CJC on the adequacy and effectiveness of those arrangements;
- (e) oversee the Mid Wales CJC’s internal and external audit arrangements;
- (f) review any financial statements prepared by the Mid Wales CJC;
- (g) exercise such other functions as the Mid CJC may specify.

Paragraph 16(2) also confirms that when appointing members of the governance and audit sub-committee, the Mid Wales CJC must ensure that—

- (a) at least one member of the sub-committee is a person who is not a member of a county council, or county borough council, in Wales,
- (b) at least two-thirds of the membership is constituted by members of the constituent councils (but not members of the constituent councils’ executives), and
- (c) none of the members of the sub-committee are—
 - (i) council members,
 - (ii) co-opted participants, or
 - (iii) members of the constituent councils’ executives.

Paragraph 16 (3) states that ‘co-opted participant’ means a person co-opted—

- (a) as a member of a sub-committee other than the governance and audit sub-committee, or
- (b) to participate in activities of the Mid Wales CJC other than the activities of the governance and audit sub-committee.

Paragraph 16 (4) of the Schedule states that the governance and audit sub-committee may not exercise its functions if the membership of the sub-committee contravenes the requirements of sub-paragraph (2), and **Paragraph 16(5)** of the Schedule states that the standing orders must include provision regulating the manner in which the governance and audit sub-committee exercises its functions.

Membership of the Mid Wales CJC- Governance and Audit Sub-committee will be established by the CJC in due course, and Committee informed accordingly. It is anticipated that some of these may include members of the Council' Governance and Audit Committee.

**Has an Integrated Impact Assessment been completed? No
If, not, please state why**

Summary: *This report does not represent a change in policy or strategy.*

WELLBEING OF FUTURE GENERATIONS:

Long term: Local Government and Elections (Wales) Act 2021 and subsequent various Regulations will have an effect on short and long-term needs, as new legislation is introduced. The Governance and Audit Committee, therefore, has an opportunity to consider such legislation and its affects.

Integration: Encouraging global responsibility in opportunity to consider new legislation (economic wellbeing also relevant to new Corporate Joint Committees under the Local Government and Elections (Wales) Act 2021).

Collaboration: With Welsh Government and Stakeholders.

Involvement: N/A from Council perspective but potentially from Welsh Government perspective of involving persons with an interest in Well-being goals in the Consultation.

Prevention: Opportunity to consider new legislation may make positive changes to governance, prevent problems getting worse and help public bodies meet Well-being objectives through improvement of performance and governance.

RECOMMENDATIONS:

That Committee notes:

- 1) the requirements of the Local Government and Elections (Wales) Act 2021 which affect the Committee, including proposed changes to the Constitution.
- 2) the ongoing recruitment process of lay members to the Committee.
- 3) the requirement for the Mid Wales Corporate Joint Committee to have a Governance and Audit Sub-committee.

REASON FOR RECOMMENDATIONS: Monitoring of the governance of the Local Authority in line with legislative changes.

Contact Name:	Elin Prysor
Designation:	Corporate Lead Officer: Legal & Governance & Monitoring Officer
Acronyms:	N/A
Date of Report:	6/5/2021
Appendices:	Appendix 1(a) to (f): extract of Constitution
Background papers	Report to Audit Committee of 24 February 2021: http://www.ceredigion.gov.uk/cpdl/Democratic_Services_Meetings_Public/B%20LG%20and%20Elections%20combined%20(s).pdf Draft Minutes of 24 February 2021 Meeting: https://www.ceredigion.gov.uk/media/8730/audit-24021-final-s.pdf Report to Council of 18 March 2021: http://www.ceredigion.gov.uk/cpdl/Democratic_Services_Meetings_Public/l%20-%20Changes%20to%20Audit%20Committee%20per%20Local%20Government%20and%20Elections%20(Wales)%20Act%202021.pdf Draft Minutes of 18 March 2021 Council Meeting: https://www.ceredigion.gov.uk/media/8975/cofnodion-ddrafft-18032021-saesneg-final.pdf
Statutory powers:	Local Government and Elections (Wales) Act 2021: https://www.legislation.gov.uk/asc/2021/1/introduction/enacted The Corporate Joint Committee (General) (Wales) Regulations 2021: https://www.legislation.gov.uk/wsi/2021/327/made Explanatory Memorandum to the Corporate Joint Committee (General) (Wales) Regulations 2021: https://senedd.wales/media/scqdz5y2/sub-ld14143-em-e.pdf The Mid Wales Corporate Joint Committee Regulations 2021: https://www.legislation.gov.uk/wsi/2021/342/made Explanatory Memorandum of The Mid Wales Corporate Joint Committee Regulations 2021: https://senedd.wales/media/11ahrkka/sub-ld14136-em-e.pdf

PART 2

ARTICLES OF THE CONSTITUTION

9.3.1 ...

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9.49.2 GOVERNANCE AND AUDIT COMMITTEE

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The Council has a Governance and Audit Committee in accordance with the Local Government (Wales) Measure 2011 (as amended), the Accounts and Audit Regulations (Wales) 2014 and the Accounts and Audit (Wales) (Amendment) Regulations 2018.

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9.2.1 ROLE AND FUNCTION OF GOVERNANCE AND AUDIT COMMITTEE

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The Governance and Audit Committee has the following roles and functions, which are expanded upon in the Terms of Reference of the Governance and Audit Committee of Part 3.3 (Table 3):

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9.2.1.1 To provide an independent and high-level focus on the Council's audit, assurance and reporting arrangements;

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9.2.1.2 To independently review and advise the Council and Cabinet, and their respective Committees and Officers, on matters regarding good governance, financial oversight, risk management control, complaints procedures/handling and internal control in the delivery of the Council's services and functions;

9.2.1.3 To ensure the Council's systems of governance and internal control are effective, including arrangements for ensuring value for money, supporting standards and ethics and for managing the authority's exposure to the risks of fraud and corruption, and to ensure that the Council's internal audit services operates in accordance with agreed procedures;

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9.2.1.4 To review, scrutinise and issue reports and recommendations in relation to the Council's financial affairs;

9.2.1.5 To review, scrutinise and issues reports and recommendations on the appropriateness of the Council's risk management, internal control and corporate governance arrangements;

9.2.1.6 To oversee the Council's internal and external audit arrangements and the Council's relationship with other regulators, including supporting the effective relationships between external and internal audit, reviewing the external auditor's opinion and reports to members, monitoring management action in response to the issues raised by external audit;

9.2.1.7 To oversee the Council's financial reporting and review its financial statements;

9.2.1.8 To review and assess the Council's draft annual Self-Assessment and draft response to any Auditor General Report; and

9.2.1.9 To adhere to accountability arrangements, including reporting on the arrangements and performance of the Governance and Audit Committee, and publish an annual report on the Committee's work.

9.2.2 COMPOSITION OF GOVERNANCE AND AUDIT COMMITTEE

9.2.2.1 Membership of Governance and Audit Committee

The Governance and Audit Committee membership is currently composed of 6 County Councillors and 1 Lay Member.

9.2.2.2 Chairing the Governance and Audit Committee

The Governance and Audit Committee Chair and Vice-Chair are currently County Councillors of the Opposition Group.

9.2.3 Quorum

A meeting of the Governance and Audit Committee is only quorate when The Terms of Reference of the Audit Committee are set out in Part 3.3 (Table 3).

at least three members are present.

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PART 2
ARTICLES OF THE CONSTITUTION

ARTICLE 9 – THE ETHICS AND STANDARDS COMMITTEE AND GOVERNANCE AND AUDIT COMMITTEE

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9-49.2 GOVERNANCE AND AUDIT COMMITTEE

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- 9.2.1.8 To review and assess the Council's draft annual Self-Assessment, Panel Performance Assessment and draft response to any Auditor General Report; and
- 9.2.1.9 To adhere to accountability arrangements, including reporting on the arrangements and performance of the Governance and Audit Committee, and publish an annual report on the Committee's work.

9.2.2 COMPOSITION OF GOVERNANCE AND AUDIT COMMITTEE

9.2.2.1 Membership of Governance and Audit Committee

The Governance and Audit Committee membership is composed of:

9.2.2.1.1 At least a one-third membership total of 'lay members'

For the purpose of the membership of the Governance and Audit Committee, a lay member is defined as a person who is not a member or officer of any local authority, who has not at any time in the period of twelve months ending with the date of that person's appointment been a member or an officer of any local authority, and who is not the spouse or civil partner of any member or officer of any local authority, as defined in the Local Government and Elections (Wales) Act 2021 and the Local Government (Wales) Measure 2011 (as amended) and any associated legislation; and

9.2.2.1.2 The remaining membership is composed of County Councillors;

9.2.2.2 Chairing the Governance and Audit Committee

The Governance and Audit Committee chooses its Chair and Vice-Chair and:

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9.2.2.2.1 The Chair of the Governance and Audit Committee shall be a lay member.

9.2.2.2.2 The Vice-Chair of the Governance and Audit Committee shall not be a member of the Council's executive or an assistant to its executive.

9.2.2.2.3 Meetings of the Governance and Audit Committee shall be chaired by its Chair or, in the absence of the Chair, by its Vice-Chair. If both the said Chair and Vice-Chair are absent, the Governance and Audit Committee may appoint a member of the Committee who is not a member of the Council's executive, or an assistant to its executive, to chair the meeting.

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PART 3
RESPONSIBILITY FOR COUNCIL
FUNCTIONS

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Committee	Functions	Delegation of Functions
<p>Governance and Audit Committee</p> <p>(6 County Councillors and 1 Lay Member)</p>	<p><u>Governance and Audit Committee – Terms of Reference 2018</u></p> <p><u>Statement of Purpose</u></p> <p>1 The <u>Governance and Audit Committee</u> is a key component of the Council’s corporate governance framework. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.</p> <p>2 The purpose of the <u>Governance and Audit Committee</u> is to provide independent assurance to full Council and management of the adequacy of the risk management framework and the internal control environment. It provides an independent review of the Council’s governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.</p> <p><u>Governance Risk and Control</u></p> <p>23 To maintain an overview of the Council’s Constitution in respect of: Contract Procedure Rules, Finance Regulations and Code of Conduct.</p> <p>34 To review the council's <u>Council's</u> corporate governance arrangements against the governance framework, including the ethical framework and consider the local code of governance.</p> <p>45 To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework</p>	<p>None</p>

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	<p>of governance, risk management and control.</p> <p>56 To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.</p> <p>67 To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.</p> <p>78 To monitor the effective development and operation of risk management in the Council.</p> <p>89 To monitor progress in addressing risk-related issues reported to the Committee.</p> <p>910 To consider reports on the effectiveness of internal controls and the implementation of agreed actions.</p> <p>4011 To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.</p> <p>4412 To monitor the counter-fraud strategy, actions and resources.</p> <p>4213 To review the governance and assurance arrangements for significant partnerships or collaborations, where applicable.</p> <p>4314 To consider the Corporate Risk Register.</p> <p>15 To consider the Council's Annual Improvement Report.</p> <p>16 <u>To review and assess the performance assessment of the Council.</u></p> <p>17 <u>To consider the Council's draft annual Self-Assessment Report and make any recommendations for changes.</u></p> <p>4 —</p> <p><u>Internal Audit</u></p> <p>218 To approve the Internal Audit Charter.</p> <p>319 To consider proposals made in relation to the appointment of any external providers of internal audit services.</p> <p>420 To approve the risk-based Internal Audit Plan, including Internal Audit's resource requirements, the approach to using other</p>	
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	<p>sources of assurance and any work required to place reliance upon those other sources.</p> <p>521 To approve significant interim changes to the risk-based Internal Audit Plan and resource requirements.</p> <p>622 To make appropriate enquiries of both management and the Head of Internal Audit (“Chief Internal Auditor”) to determine if there are any inappropriate scope or resource limitations.</p> <p>723 To consider reports from the Head of Internal Audit on internal audit’s performance during the year, including the performance of any external providers of internal audit services. These will include:</p> <ul style="list-style-type: none"> a. Updates on the work of Internal Audit including key findings, issues of concern and action in hand as a result of internal audit work. b. Regular reports on the results of the Quality Assurance and Improvement Programme. c. Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement. <p>824 To consider the Head of Internal Audit’s annual report regarding:</p> <ul style="list-style-type: none"> a. The statement of the level of conformance with the Public Sector Internal Audit Standards and Local Government Application Note and the results of the Quality Assurance and Improvement Programme that support the statement - these will indicate the reliability of the conclusions of internal audit. b. The opinion on the overall adequacy and effectiveness of the Council’s framework of governance, risk management and control together with the 	
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	<p>summary of the work supporting the opinion - these will assist the committee in reviewing the Annual Governance Statement.</p> <p>925 To consider summaries of specific Internal Audit reports as requested.</p> <p>4026 To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.</p> <p>4127 To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.</p> <p>4228 To consider a report on the effectiveness of Internal Audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit (Wales) Regulations 2014</p> <p>4329 To support effective communication with the head of audit.</p> <p>4430 To commission work from Internal Audit</p> <p><u>External Audit & Regulators</u></p> <p>4531 To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.</p> <p>4632 To consider specific reports as agreed with the external auditor.</p> <p>4733 To comment on the scope and depth of external audit work and to ensure it gives value for money.</p> <p>4834 To commission work from external audit.</p> <p>4935 To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.</p> <p>36 To consider reports from external regulators (including but not exclusive to: WAO, PSOW, GRO, CSIW, Estyn).</p> <p>2037 <u>Consider any Report received from the Auditor General, and the Council's draft response.</u></p>	
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	<p>Financial Reporting</p> <p><u>2138</u> To review the annual statement of accounts and related reports. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.</p> <p><u>2239</u> To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.</p> <p>Accountability Arrangements</p> <p><u>4440</u> To report to those charged with governance on the Audit Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.</p> <p><u>4541</u> To report to full Council on the Audit Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose.</p> <p><u>4642</u> To publish an annual report on the work of the Committee.</p> <p>Performance Reporting</p> <p><u>43</u> To consider reports on compliments, complaints and Freedom of Information activity.</p> <p><u>44</u> <u>To review and assess the Council's ability to handle complaints effectively.</u></p> <p><u>23</u></p>	
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Appendix 1(d) Extract of draft changes to Part 3 of Constitution with May 2022 changes

**PART 3
RESPONSIBILITY FOR COUNCIL
FUNCTIONS**

Committee	Functions	Delegation of Functions
Governance and Audit Committee	Governance and Audit Committee – Terms of Reference 2018	None
(x Lay Member(s) and x County Councillors - 1/3 lay member composition)	<u>Governance Risk and Control...</u> 18. To consider the Council's Panel Performance Assessment Report and the Council's draft response.	

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Appendix 1(e) Extract of draft changes to Part 4B of Constitution

Document B

ACCESS TO INFORMATION PROCEDURE RULES



Author and service:

Date approved by Council: 19 March 2019

Publication date:

Review Date:

Ceredigion County Council Constitution - Part 4 Rules of Procedure

PART 4 DOCUMENT B Access to Information Procedure Rules

Updated ~~February~~ May 2021

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1. SCOPE

These rules apply to all meetings of the Council, the Cabinet, Overview and Scrutiny Committees, the Ethics and Standards Committee, the Development Control Committee, the Governance and Audit Committee, the Licensing Committee and the Shortlisting Committee and any other public meetings.

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Appendix 1(f) Extract of draft changes to Part 4F of Constitution

Document F

FINANCIAL REGULATIONS AND ACCOMPANYING FINANCIAL PROCEDURES



Chief Finance Officer: Stephen Johnson
Audit Committee: 17th October 2017
Date approved by Council: 22 March 2018
Integrated Impact Assessment (Yes/No):
Publication date:
Policy Review Date:

...

Committees

Governance and Audit Committee

The Governance and Audit Committee is a key component of the Council's governance framework. Its function is to provide an independent and high level resource to support good governance and strong public financial management.

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Responsibilities of the Chief Finance Officer

- To ensure that the = Internal Audit Charter provides the Section with the authority to:
 - a) Enter any Council premises or land at any reasonable times,
 - b) access all assets, records, documents, correspondence and control systems relating to any financial or other transactions of the Council.
 - c) require and receive any such information and explanation considered necessary concerning any matter under consideration/examination,
 - d) require any employee of the Council to account for cash, stores or any other Council property under his or her control, and
 - e) have access to records belonging to third parties, such as contractors or partnership agencies, according to the relevant contractual terms.
- The Chief Internal Auditor has direct access to the Head of Paid Service, the Chair of Governance and Audit Committee, the Cabinet and Members.
- The Chief Internal Auditor is required and enabled to provide an annual audit opinion on assurance.
- To ensure that effective procedures are in place to investigate promptly any suspected fraud, irregularity or malpractice.