

Appendix 3 to Report to Council 22 May 2018

Proposed changes to the Constitution in order to clarify the separate roles of the Audit Committee and the Overview and Scrutiny Management Committee

Changes set out in red below

- 1) The role of the Audit Committee is set out in **paragraph 2.8 of Part 3** of the Constitution. This paragraph requires some modification in order to make it a definitive statement of Audit's role to include references to activities mentioned elsewhere in the Constitution and to reflect guidance from various professional bodies.
 - External Audit is the major statutory provision which is the responsibility of the Audit Committee and **the entry "External Audit activity" should precede "Internal Audit Activity" in para 2.8**

2.8 Audit Committee Composition

The size of the Audit Committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality.

The Audit Committee will exclude members of the Cabinet. The Leader of the Council or the cabinet member responsible for finance and governance is a non-voting member of the Committee.

Substitute members will be permitted in accordance with Part 4 of this Constitution.

Role and Function

The Audit Committee will be responsible for:

- External Audit Activity **(section moved from after internal audit):**
 - *To receive and comment on the external audit plan;*
 - *To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance;*
 - *To comment on the scope and depth of external audit work and to ensure it gives value for money;*
 - *To monitor the implementation of management actions arising from external audit work.*
- Internal Audit Activity:
 - *To approve the terms of reference and strategy for internal audit, and the annual internal audit plan **and subsequent changes thereto;***
 - *To monitor and review the effectiveness of internal audit to ensure compliance with statutory requirements;*
 - *To consider the Head of Internal Audit's annual report and opinion, and a summary on internal audit activity and the level of assurance it provides on the Council's corporate governance arrangements;*
 - *To consider specific internal audit reports as requested, and monitor the implementation of agreed management actions.*

- Regulatory Framework:
 - To monitor and review the effective development and operation of corporate governance, risk **and performance** management and internal control, and to receive progress reports as required;
 - To oversee the process for production of the annual governance statement (AGS), to review the supporting evidence **including the arrangements for governance of partnership working**, and to approve the draft AGS;
 - To monitor the development and implementation of the Council's anti-fraud and corruption policy and strategy.

- Financial Management and Accounts:
 - To ensure the Council's arrangements for financial management are adequate and effective, and, **together with its accounting policies**, are regularly reviewed;
 - To review and approve the annual statement of accounts;
 - To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

2) In Protocol 11 DELETE the words “~~process and soundness of information~~” from column 6 of rows 2, 3 and 4.

Protocol 11 Governance Reporting Arrangements

	Governance Area	Executive Responsibility	Non - Executive Lead Committee	Activity – Terms of Reference	Other Interested Committees
1.	<i>Corporate Plan - Performance</i>	<i>Cabinet (Council approves Plan)</i>	<i>Overview and Scrutiny</i>	<i>Review and scrutinise</i>	<i>Audit Standards</i>
2.	<i>Medium Term Financial Strategy (MTFS)</i>	<i>Cabinet (Council approves MTFS)</i>	<i>Overview and Scrutiny</i>	<i>Review and scrutinise</i>	<i>Audit - process and soundness of information</i>
3.	<i>Budget Setting</i>	<i>Cabinet (Council approves budget)</i>	<i>Overview and Scrutiny</i>	<i>Review and scrutinise</i>	<i>Audit - process and soundness of information</i>
4.	<i>Budget Monitoring</i>	<i>Cabinet</i>	<i>Overview and Scrutiny</i>	<i>Review and scrutinise</i>	<i>Audit - process and soundness of information</i>

3) Part 2 Article 6 - In order to clarify the separate and distinct role of Overview and Scrutiny the following changes are proposed.

Article 6 - Overview and Scrutiny Committees

6.1 Appointment

The council will annually constitute and appoint an overview and scrutiny management committee and select committees in accordance with the agreed structure, each comprising at least seven councillors, to discharge the functions conferred by the Local Government Act 2000, as amended, and associated regulations.

6.2 Terms of reference

The overview and scrutiny management committee will be responsible for:

- *Overall management of the overview and scrutiny function in line with this article and the overview and scrutiny procedure rules set out in Part 8 of the Constitution, including call-in of executive decisions and councillor requests for reviews;*
- *Co-ordination of the overall work programme, aligned to the Council's priorities;*
- *Leading the working relationship with the Cabinet on the basis of agreed core values;*
- *Establishing any sub-committees, endorsing the formation of task groups, appointing representatives to project boards and delegating responsibility as appropriate;*
- *Assigning dedicated overview and scrutiny resources (officer team and budget);*
- *Overview, policy development and scrutiny of policy framework and corporate and organisational matters;*
- ***Overview and Scrutiny engagement on budget setting, budget monitoring and the Medium Term Financial Strategy (MTFS)***
- *Overview, policy development and scrutiny of the Council's Business Plan;*
- *annual review and periodic performance monitoring;*
- *developing appropriate overview and scrutiny operational protocols*

6.3 *The management committee has the power of direction over the standing select committees. Its membership should include the chairman of each of the standing select committees.*

6.4 *The select committees will deliver that part of the overall work programme relevant to their service areas under the direction of the management committee and will report back to the management committee on its work and make recommendations as necessary. The management committee and select committees will together:*

- *perform all overview and scrutiny functions on behalf of the council;*
- *review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions;*
- *make reports and recommendations to the Full Council and the Cabinet or relevant Cabinet member and any relevant partner in connection with the discharge of any functions;*

- foster and encourage an inclusive, structured, non-partisan and non-adversarial approach to overview and scrutiny which is reliant on evidence rather than anecdote.

6.5 **The Management Committee will also work with the Audit Committee to refer matters of governance and/or the control environment for further review. Likewise, the Audit Committee can refer matters arising from its remit that have a specific impact or risk to the Council's policy or operation to the Management Committee to consider the need for review**

6.6 *In addition to the above, the committee responsible for health scrutiny will:*

- review and scrutinise any matter relating to the planning, provision and operation of health services in Wiltshire, including any significant change to service provision and those jointly commissioned or delivered by the council;
- require the attendance of an officer of a local NHS body to answer questions and provide explanations about the planning, provision and operation of health services in Wiltshire;
- require a local NHS body to provide information about the planning, provision and operation of health services in Wiltshire, subject to the exemptions outlined in the Health and Social Care Act 2001;
- participate in cross-boundary overview and scrutiny of health services with other local authorities; including the establishment of joint committees; or the delegation of functions to another local authority;
- report to the secretary of state for health:
 - where the committee is concerned that consultation on substantial variation or development of services has been inadequate;
 - where the committee considers that the proposal is not in the interests of the local health service;
- maintain an overview of the council's responsibilities and role in relation to health and wellbeing.

6.7 **Finance**

The Overview and Scrutiny Management Committee will exercise overall responsibility for the finances made available to it.

6.8 **Proceedings of overview and scrutiny committees**

The overview and scrutiny management committee and select committees will conduct their proceedings in accordance with the overview and scrutiny procedure rules set out in Part 8 of this constitution.

4) In Section B (3) of Part 9 of the Constitution – Financial Regulations and Procedure Rules

Audit Committee **and** Overview and Scrutiny Management Committee, **Select Committees and the Financial Planning Task Group**

3.1 The financial responsibilities of the Audit Committee are set out at Section B of Part 3 of this constitution. The financial responsibilities of the Overview and Scrutiny Management Committee (~~incorporating Scrutiny Select Committees and the Financial Planning Task Group~~) are set out at Article 6 of Part 2 of this constitution. These committees are responsible for influencing and scrutinising Cabinet decisions before and after they have been implemented, and for holding the Cabinet to account.

~~3.2~~ The Audit Committee **and** Overview and Scrutiny Management Committee, ~~Scrutiny Select Committees and the Financial Planning Task Group~~ report to the Cabinet or the Full Council in relation to matters **concerning their respective responsibilities as set out in Para 2.8 of Section B of Part 3 and Part 2 Article 6.2 of the Constitution respectively**

- ~~• Financial and other internal control systems;~~
- ~~• Financial irregularities and losses;~~
- ~~• Internal and External Audit;~~
- ~~• Performance information, including performance indicators;~~
- ~~• Best Value Reviews of cross cutting services;~~
- ~~• Risk management~~

~~3.3~~ These committees have the right of access to information they consider necessary as set out in Part 5 of the constitution and can consult directly with internal and external auditors. **The committees are responsible for reviewing the external auditor's reports and the annual audit letter and internal audit's annual report.**