

AMENDMENTS TO CONSTITUTION

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Summary: Presents changes to the constitution to clarify portfolio responsibilities, provide for an Audit Committee and other changes.

Recommendation:	That the amendments proposed are approved and implemented with effect from the 2006 Annual Meeting of the Council
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Impact on delivering the Corporate Plan: None

Impact on other statutory objectives and Health and Safety None

Financial and human resource implications: None

Project & Risk Management: None

1. INTRODUCTION

- 1.1 This report recommends amendments to the constitution to clarify portfolio responsibilities, provide for an Audit Committee and other changes.

2. SUMMARY OF AMENDMENTS

PART 1 – ARTICLES

- 2.1 Article 6 has been amended to provide for 9 members on each Overview and Scrutiny Committee, not 11, and to delete the audit functions from the terms of reference of OSC PR. These will now be the responsibility of the Audit Committee (see below).
- 2.2 Article 8 has been amended to include the Audit Committee (see below) and other member groups now listed in the Scheme of Delegation.
- 2.3 Article 9 provides for the Standards Committee to be chaired by an independent Member. Whilst not a mandatory requirement, chairmanship by an independent Member is recommended by the Standards Board for England in cases where the Standards Committee conducts hearings under the local investigation and determination procedures, which is likely to be one of the Committee's main areas of activity in future.

Independent chairmanship is increasingly common in local authorities since the local determination arrangements came into force, and for these reasons is recommended.

3. PART 3 – EXECUTIVE PORTFOLIOS

- 3.1 No major changes are proposed to Executive portfolios. Minor changes shown are intended to clarify some issues in current responsibilities.

4. PART 3 – OTHER DELEGATIONS

- 4.1 Part 3 now includes other Panels and working parties which have not hitherto been part of the formal scheme.
- 4.2 The most important change to the constitution proposed in this report is the introduction of a separate Audit Committee.
- 4.3 Monitoring of internal and external audit functions are currently the responsibility of OSC PR, who have appointed a sub group to undertake these duties. Whilst this arrangement works reasonably well, neither the sub group nor full OSC PR can take delegated decisions on behalf of the Council since overview and scrutiny committees cannot legally do so. The District Auditor has made clear his view that the Council should have in place a committee which can act under delegated powers from the Council to approve the Annual Statement of Accounts and Statement of Internal Control.
- 4.4 The Audit Commission's Key Lines of Enquiry (KLOE's) for the next round of CPA (starting in 2007 for the Cumbria districts) specify that achievement of Level 4 on Use of Resources requires (inter alia) that: " There is an audit committee which is constituted as a full committee of the council and is independent of both the Executive and Scrutiny functions..... The audit committee has terms of reference which are reviewed on an annual basis, taking into account relevant governance developments and how it integrates with other committees within the Council". An authority which fails to achieve Level 4 (the highest level) on any of the KLOE's cannot score an excellent rating in CPA.
- 4.5 For these reasons the Council is strongly recommended to appoint an Audit Committee as a conventional committee with delegated powers in appropriate areas, which will take over the audit functions from OSC PR, which will retain its remaining functions, but with an added emphasis on performance management. The proposed terms of reference of the Audit Committee (7 Members) are shown in the revised extracts from Part 3. Care will be needed to ensure there is no unnecessary duplication between the Audit Committee's activities and those of the overview and scrutiny committees, particularly OSC PR, and the Audit Committee's terms of reference have been drafted accordingly.
- 4.6 Audit Committee members cannot be Executive members or Overview and Scrutiny Committee members. It is therefore recommended that the number of seats on each OSC is reduced from 11 to 9, thereby giving each non-Executive Councillor 1 seat on 1 OSC or the Audit Committee.

5 PART 4B – ACCESS TO INFORMATION PROCEDURE RULES

- 5.1 These have been amended to take into account the new rules on access to information which came into effect on 1 March.

List of Appendices

Appendix A – Amended Articles

Appendix B – Executive Portfolios

Appendix C – Part 3 – Scheme of Delegations

Appendix D – Part 4B – Access to Information Procedure Rules

List of Background Documents:

List of Consultees: Corporate
Team; Executive