

- Legal David Carter – Strategic Director of Performance and Development (reporting officer)
- Finance
- Other Strategic Directors
- District Councils
- Health Authority
- Police
- Other Bodies/Individuals

FINAL DECISION YES

SUGGESTED NEXT STEPS:

Details to be specified

- Further consideration by this Committee
- To Council
- To Cabinet
- To an O & S Committee
- To an Area Committee
- Further Consultation

Council - 9 May 2006.

Changes to the Constitution

Report of the Strategic Director of Performance and Development

Recommendations

- (1) That the responsibilities of full Council and the Council's Policy Framework be as set out in Appendix 1 to this report.
- (2) That the Council establishes an Audit and Standards Committee as set out in this report with terms of reference as set out in Appendix 2 to this report.
- (3) That the Strategic Director of Performance and Development be authorised to amend the Constitution to reflect these changes.

1.0 Responsibilities of Full Council and the Policy Framework

- 1.1 The list of plans that local authorities are required to prepare and publish has been changed by new statutory regulations. These changes are largely as a result of the new streamlined approach to the delivery of children's services. A number of Education and Social Services plans relating to children that we were required to maintain have now been subsumed into a single Children and Young People's Plan as reported to Cabinet on 6 April 2006.
- 1.2 The Early Years Development Plan, the Education Development Plan (in Warwickshire this was contained in our Single Education Plan (SEP), the Children's Services Plan (in Warwickshire called the Social Services Children Inspection Action Plan) and the Strategic Plan for Vulnerable Children and Young People will now all be contained in the Children and Young People's Plan. As a result the Council needs to amend its Policy Framework as set out in the Constitution. The revised Policy Framework (Part 2, Section 2 of the Constitution) is set out in Appendix 1 to this report.
- 1.3 The regulations have also made another minor amendment making it clear that the responsibility for enforcing bylaws should not be the responsibility of the Council's executive. The Constitution (Part 2, Section 2) already makes

the responsibility for bylaws a matter for full Council and this section will need a slight amendment to include reference to enforcement powers. These changes are also set out in Appendix 1.

2.0 Audit and Standards Committee

- 2.1 The Standards Committee is currently comprised of 2 independent members (including the Chair) and 6 councillors (3 Conservative, 2 Labour; 1 Liberal Democrat). Its terms of reference are set out in full in Part 2 Section 7 of the Constitution. In summary its role concerns compliance with member and officer codes of conduct, overview of internal and appropriate external audit matters, overview of complaints handling and Ombudsman investigations and oversight of other arrangements for the maintenance of probity.
- 2.2 The rules governing Standards Committees require at least 25% of the membership to be independent members. The current size of the Committee is 8 and therefore 2 independent members are required. Under the rules a Standards Committee can include one Cabinet member. These basic rules would need to be complied with should the Council wish to establish a combined Audit and Standards Committee.
- 2.3 The Audit Panel was established last year and its membership consists of the Leader and another Cabinet member, an Independent Member of the Standards Committee and one member from each of the political groups on the Standards Committee. Its specific role is to consider the external auditor's annual Audit Management Letter and Audit Plan. In addition it may consider any issue referred to it by Cabinet and/or Standards Committee.
- 2.4 The CPA Use of Resources Assessment has 4 levels. The Council is currently at level 3 for its systems of internal control. One of the requirements to move to level 4 is that there is an audit committee which is constituted as a full committee of the council and is independent of both Executive and Scrutiny functions. Cipfa guidance states that the purpose of an audit committee is *'to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process'*. It recommends that local authorities should formally approve a statement of purpose for the audit committee.
- 2.5 The guidance also identifies the following as 'core functions' for an audit committee:
- Considering the effectiveness of the authority's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements
 - Seeking assurances that action is being taken on risk-related issues identified by auditors and inspectors

- Being satisfied that the authority's assurance statements, including the Statement of Internal Control, properly reflect the risk environment and any actions required to improve it.
 - Approving internal audit's strategy, plan and monitor performance
 - Reviewing summary internal audit reports and the main issues arising and seek assurance that action has been taken
 - Receiving the annual report of the head of internal audit
 - Considering the reports of external audit and inspection agencies
 - Ensuring there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted
 - Reviewing the financial statements, external auditor's opinion and reports to members and to monitor management action in response to the issues raised by external audit
- 2.6. The terms of reference of the proposed new Audit and Standards Committee are attached at Appendix 2. It is suggested that the overall size of the new Committee is 8 and that the membership should comprise the following
- 2 independent members (including the Chair)
- 1 Cabinet member; 2 Conservatives; 2 Labour and 1 Liberal Democrat

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28 April 2006

SECTION 2 RESPONSIBILITIES OF FULL COUNCIL

<u>Function</u>	<u>Statutory reference</u>
Adopting and changing the Constitution.	Part II Local Government Act 2000 and subordinate legislation.
Approving or adopting the policy framework and the budget.	Sections 13 and 105 Local Government Act 2000; Regulation 4 and Schedule 3 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
Subject to the urgency procedure contained in Standing Orders in Part 3 of this Constitution, making decisions which are contrary to the policy framework or decisions which are contrary to or not wholly in accordance with the budget.	Sections 13 and 105 Local Government Act 2000; Regulation 5 and Schedule 4 of The Local Authorities (Functions and Responsibilities) (England) Regulations.
Appointing the leader and members of the cabinet.	Section 15 Local Government Act 2000.
Determining the allocation of executive functions to the Executive.	Section 15 Local Government Act 2000.
In relation to functions which are not the responsibility of the Executive agreeing and/or amending the terms of reference for committees, or joint committees, deciding on their composition and making appointments to them.	Sections 101 and 102 Local Government Act 1972. Sections 21 and 53 Local Government Act 2000.
Appointing the independent members of the Standards committee, and if it thinks fit, the Chair of that Committee.	Section 53 Local Government Act 2000 and any regulations made there under.
Appointing representatives to outside bodies unless the appointment is an executive function or has been otherwise delegated by the Council.	Section 101 and 102 Local Government Act 1972 and any other enactment conferring powers on the Council.
Adopting an allowances scheme under Article 2.5.	Sections 173 to 175 Local Government Act 1972; Section 18 Local Government and Housing Act 1989.
Changing the name of the area.	Section 74 Local Government Act 1972
Making, amending or revoking standing orders.	Sections 106, 135, paragraph 42 Schedule 12 Local Government Act 1972; Sections 8 and 20 Local Government and Housing Act 1989
Confirming the appointment of the head of paid service, the monitoring officer and the chief finance officer.	Section 151 Local Government Act 1972; Sections 4,5 Local Government and Housing Act 1989.
Making, amending, revoking, re-enacting adopting or enforcing bylaws.	Any provision of any enactment (including a local Act) whenever passed; Section 14 Interpretation Act 1978.
Promoting or opposing the making of local legislation or personal Bills.	Section 239 Local Government Act 1972.

All local choice functions set out in section 3 of this Part of the Constitution which the Council decides should be undertaken by itself rather than any other person or body or other matters reserved to full Council by this Constitution.	Sections 13, 105 Local Government Act 2000; Regulation 3(1) and Schedule 2 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000/2853.
Determining whether or not to accept the delegation of any functions from another local authority.	Section 101 and 102 Local Government Act 1972.
Approving the authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).	Accounts and Audit Regulations 1996 (SI 1996/590).
Appointing proper officers for the purposes of any particular functions.	Section 270(3) Local Government Act 1972.
Approval for the purposes of public consultation draft proposals associated with the preparation of alterations to, or the replacement of, a development plan.	Regulation 10 or 22 Town and Country Planning (Development Plans) (England) Regulations 1999.
All other matters which, by law, must be reserved to the Council.	Any provision of any enactment including a local Act) whenever passed.
Powers and duties relating to local development documents which are development plan documents.	Sections 20 to 23 and 25, 26 and 28 of the Planning and Compulsory Purchase Act 2004.
Power to agree to establish a joint committee to be, for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004, a local planning authority.	Section 29 of the Planning and Compulsory Purchase Act 2004.
Power to agree to confer additional functions on a joint committee.	Section 30 of the Planning and Compulsory Purchase Act 2004.
Power to request the dissolution of a joint committee.	Section 31 of the Planning and Compulsory Purchase Act 2004.
Duty to provide staff, etc to person nominated by monitoring officer.	Section 82A(4) and (5) of the Local Government Act 2000.
Powers relating to overview and scrutiny committees (voting rights of co-opted members).	Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000.

Appointments to Outside or Joint Bodies

For the avoidance of doubt the Council hereby expressly reserves to itself the appointments to the following bodies

Police Authority,
 Fire and Rescue Service Regional Management Board (West Midlands),
 Local Government Association and its subsidiary bodies,
 West Midlands Local Government Association and its subsidiary bodies,
 Any joint committees other than joint committees to be appointed by the Cabinet under Article 6
 Joint member panels with the Warwickshire district/borough councils.
 Local Strategic Partnerships

The Policy Framework shall include the following plans and strategies

Plan or Strategy	Statutory Reference
Annual Library Position Statement	Section 1 (2) Public Libraries and Museums Act 1964
Best Value Performance Plan	Section 6(1) Local Government Act 1999
Children and Young People's Plan	Regulation 3 of the Children and Young People's Plan (England) Regulations 2005
Older People's Strategy	
Community Strategy [Warwickshire Strategic Plan]	Section 4 Local Government Act 2000
Crime and Disorder Reduction Strategy	Sections 5 and 6 Crime and Disorder Act 1998
Local Transport Plan	Section 108(3) Transport Act 2000
Plans and strategies, which together comprise the Development Plan	Section 54 Town and Country Planning Act 1990
Youth Justice Plan	Section 40 Crime and Disorder Act 1998
Any plan or strategy for the control of the authority's borrowing, investments or capital expenditure	Section 151 Local Government Act 1972
Corporate Business Plan	Section 111 Local Government Act 1972

Food Law Enforcement Service Plan	Section 12(2) Food Standards Act 1999
Adult and Community Learning Plan	Section 23 Learning and Skills Act 2000
Local Agenda 21 Strategy	DETR guidance' A better quality of life- a strategy for sustainable development for the UK.
Fire & Rescue Integrated Risk Management Plan	Section 21 Fire and Rescue Services Act 2004

Budget. The budget includes the allocation of capital and revenue resources, the precept level, the council tax, the planned use of reserves, the county council's borrowing limit and the virement limits.

Audit and Standards Committee –Terms of Reference

Function	Statutory Reference
1. Promoting and maintaining high standards of conduct by councillors, co-opted members and church parent governor representatives	Section 54(1)(a) Local Government Act 2000
2. Assisting councillors, co-opted members and church and parent governor representatives to observe the members' Code of Conduct	Section 54(1)(b) Local Government Act 2000
3. Advising the Council on the adoption or revision of the Members' Code of Conduct	Section 54(2)(a) Local Government Act 2000
4. Monitoring the operation of the Members' Code of Conduct	Section 54(2)(b) Local Government Act 2000
5. Advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of conduct	Section 54(2)(c) Local Government Act 2000
6. Granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct	Section 81(5) Local Government Act 2000
7. Dealing with any reports from a case tribunal or interim case tribunal, and any report from the monitoring officer on any matter which is referred by an ethical standards officer to the monitoring officer	Sections 64(2), 66, 78(2), 79 and 80 Local Government Act 2000
<p>8. Oversight of internal and external audit matters, the Councils arrangements for corporate governance and risk management and any other arrangements for the maintenance of probity including,</p> <ul style="list-style-type: none"> • approval of the internal audit strategy/plan • review of financial statements, the annual accounts, the statement of internal control, and any opinions/reports of external or internal audit or inspection agencies • assessing the effectiveness of the Council's control environment, risk management and corporate governance arrangements • seeking any required assurances to ensure appropriate action is taken and • monitoring performance in relation to any action required <p>and making recommendations to Cabinet and/or Council as appropriate where executive action is required</p>	Section 54(3) Local Government Act 2000