

# STANDARDS COMMITTEE

Friday, 5 May 2006

1.00 p.m.

Council Chamber,  
Council Offices, Spennymoor

# AGENDA and REPORTS

## AGENDA

**1. APOLOGIES**

**2. MINUTES**

To confirm as a correct record the Minutes of the meeting held on 6<sup>th</sup> April 2006.  
(Pages 1 - 4)

**3. THE IMPLICATIONS OF THE ESTABLISHMENT OF AN AUDIT COMMITTEE**

To consider the attached report of the Chief Executive and the Director of Resources. (Pages 5 - 16)

**4. REVIEW OF THE CONSTITUTION - MEMBER INVOLVEMENT - PROPOSED CHANGES TO THE 'CALL IN' PROCEDURE**

To consider the attached report of the Chief Executive Officer. (Pages 17 - 24)

**5. DATE OF NEXT MEETING**

To be confirmed at Annual Council.

**6. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT**

Members are respectfully requested to give the Chief Executive Officer notice of items they would wish to raise under the heading not later than 12 noon on the day preceding the meeting, in order that consultation may take place with the Chairman who will determine whether the item will be accepted.

N. Vaulks  
Chief Executive Officer

Council Offices  
SPENNYMOOR  
26<sup>th</sup> April 2006

L. Petterson (Chairman)

Councillors Mrs. B. Graham, A. Gray, Mrs. L. Hovvells, G.M.R. Howe and J. Wayman J.P

Councillor J. Marr (Spennymoor Town Council)

Mr. I. Jamieson (Independent Member)

---

ACCESS TO INFORMATION

Any person wishing to exercise the right of inspection in relation to this Agenda and associated papers should contact Miss S. Billingham, Tel 01388 816166 Ext 4240, [sbillingham@sedgefield.gov.uk](mailto:sbillingham@sedgefield.gov.uk)

# Item 2

## SEDGEFIELD BOROUGH COUNCIL

### STANDARDS COMMITTEE

Council Chamber,  
Council Offices,  
Spennymoor

Thursday,  
6 April 2006

Time: 1.00 p.m.

**Present:** L. Petterson (Chairman) and

Councillors Mrs. B. Graham, A. Gray, G.M.R. Howe and J. Wayman J.P.

**Parish/Town Council member**

Councillor J. Marr (Spennymoor Town Council)

**Independent Member**

Mr. I Jamieson

**Observers**

Councillor Mrs. C. Sproat (Sedgefield Borough Council)

Councillor Mrs. E. Maddison (Spennymoor Town Council)

**Apologies:** Councillor Mrs. L. Hovvets

**ST.24/05**

**AUDIT COMMISSION PRESENTATION**

C. Andrew and S. Swan, Audit Commission, attended the meeting to give a presentation on Comprehensive Performance Assessment (CPA) and Standards of Conduct. (For copy see file of Minutes).

The presentation detailed the CPA process for District Councils, including the three key elements – corporate assessment, service assessment and the use of resources. It also included details on the new Code of Audit Practice that needed to be followed in identifying value for money, together with the scoring system and how each of the levels from 1 - 4 could be achieved.

Questions were raised as to how reaching the different levels was evaluated, specifically how Members and officers could demonstrate high standards of personal conduct to achieve level 4. It was explained that a body of evidence would be collated and subjectively viewed to award a suitable level.

It was also questioned how many local authorities had been awarded Level 4. It was reported that there were very few, however, the specific figure would need to be located from the database. It was agreed that the Committee would be informed of that figure at a later date.

**ST.25/05**

**DECLARATIONS OF INTEREST**

Members had no interests to declare.

**ST.26/05****MINUTES**

The Minutes of the meeting held on 1<sup>st</sup> November 2005 were confirmed as a correct and signed by the Chairman. (For copy see file of Minutes).

Specific reference was made to Minute no. ST.16/05 – An Analysis of the Current Trends in Allegations of Misconduct at National and Local Level – the Solicitor to the Council and Monitoring Officer explained that the Council was now in the position where its information on current trends could be collated. Members were informed that further reports of progress would be submitted to the Committee.

**ST.27/05****ARRANGEMENTS FOR REVIEW OF THE CONSTITUTION**

Consideration was given to a report of the Chief Executive Officer, which detailed the need to continually review the Constitution to ensure that it reflected existing law and its operation continued to provide an efficient and effective framework in the delivery of the Council's aims and objectives. (For copy see file of Minutes).

The report informed Members of the proposed changes to the Constitution that had been made following meetings of the Constitutional Review Group and advice from the Council's Monitoring Officer.

*RECOMMENDED:*

1. *That the Constitution be amended accordingly.*
2. *That the amended version be published on the Council's website.*

**ST.28/05****PROPOSED CHANGES TO THE CODE OF CONDUCT**

Consideration was given to a report of the Solicitor to the Council and Monitoring Officer detailing the future changes that would be due to be implemented to the Code of Conduct. (For copy see file of Minutes).

Members were informed of the proposed changes to the Code. It was believed by the Standards Board and the Government that they would ensure the Code would become clearer and simpler with more focus on important and serious issues of misconduct that would need to be addressed in raising public confidence in local government.

Concerns were raised by the Committee regarding a number of the proposed changes, specifically to the following points: -

- 3.8 – The range of interests, which would be required to be registered, to be reduced.
- 3.11 – Interests arising from membership of another public body, a charity or local pressure group, should not prevent members from discharging their representative role.
- 3.12 – The current £25 threshold for declaration of gifts and hospitality to be retained and the register of gifts and hospitality to be made public.
- 3.13 – Outside official duties, only unlawful conduct to be regarded as likely to bring the Member's office or Authority into disrepute.

It was suggested that the proposals outlined in the report be agreed with the above points being carefully monitored.

*AGREED: That the report and future changes to the Code of Conduct be noted.*

**ST.29/05**

**PROPOSALS FOR AN INDEPENDENT MEMBER FORUM**

Consideration was given to a report of the Solicitor to the Council and Monitoring Officer outlining the Council's position in relation to the establishment of an Independent Member Forum in the northern area. (For copy see file of Minutes).

Members were informed of the proposal received from the Independent Members of Darlington Borough Council's Standard Committee to establish an Independent Members Forum within the North East.

It was explained that there was no such Forum within the area, however, the Standards Board had agreed that the establishment of more Forums would be beneficial. Discussions had also been held between the Solicitor to the Council and Monitoring Officer, the Chief Executive Officer and Director of Resources who were in favour of the proposals.

The Solicitor to the Council and Monitoring Officer suggested that a reply in favour of the establishment be sent to Darlington Borough Council.

Members of the Committee agreed, however, raised concerns and requested its development be monitored.

It was pointed out that if Members felt the Forum was unsuccessful then the Council could withdraw.

- AGREED :*
- 1. That the report be noted.*
  - 2. That a letter in favour of the establishment of the Forum be submitted to Darlington Borough Council.*
  - 3. That further reports be submitted to the Committee during the Forums development.*

**ST.30/05**

**STANDARDS TRAINING UPDATE**

Members were informed that three training events would be arranged for early Autumn 2006 essentially for Sedgefield Borough Council Members, however, invitations would be extended to Town and Parish Councils to discuss a number of issues with regard to Standards. Members would continue to be updated.

The Solicitor to the Council and Monitoring Officer explained that the Standards Training event for Members, which had taken place on 4<sup>th</sup> April, 2006 had been a huge success. Attendance had been strong and from various local authorities from across the region. It was pointed out that feedback from those who took part had been excellent.

Members were also reminded that attendance to the Annual Standards Board Conference in Birmingham on 16<sup>th</sup>/17<sup>th</sup> October 2006 would need to be considered and agreed at Cabinet.

**ST.31/05**

**DATE OF NEXT MEETING**

It was explained that a report proposing the establishment of an Audit Committee was due to be considered by Cabinet. If agreed it was pointed out that a Standards Committee would need to be held before Annual Council which would be held on 19<sup>th</sup> May 2006.

It was agreed that Members of the Committee would be informed as soon as details were confirmed.

---

**ACCESS TO INFORMATION**

Any person wishing to exercise the right of inspection, etc., in relation to these Minutes and associated papers should contact Miss. S. Billingham, Spennymoor 816166, Ext 4240, [sbillingham@sedgefield.gov.uk](mailto:sbillingham@sedgefield.gov.uk)

# Item 3

## STANDARDS COMMITTEE

5<sup>TH</sup> MAY 2006

### JOINT REPORT OF THE CHIEF EXECUTIVE AND DIRECTOR OF RESOURCES

**Portfolio: RESOURCE MANAGEMENT**

#### **THE IMPLICATIONS OF THE ESTABLISHMENT OF AN AUDIT COMMITTEE**

##### **1. SUMMARY**

- 1.1 The Council is being encouraged by the Audit Commission to consider the establishment of an Audit Committee. The Chartered Institute of Public Finance and Accountancy also considers that an Audit Committee, which would be separate from the Executive and Scrutiny functions, would enhance public trust and confidence in the financial governance of an authority.
- 1.2 The purpose of the report is therefore to identify the issues that need to be taken into account in determining a statement of purpose, core functions, structure and composition and the constitutional impact of creating an Audit Committee.

##### **2. RECOMMENDATIONS**

- 2.1 That Standards Committee considers this Report and makes recommendations to the Council.
- 2.2 That the Constitution be amended to incorporate the changes shown in Appendix 2 of this report together with any other consequential changes identified by the Monitoring Officer.

##### **3. BACKGROUND**

- 3.1 The Local Government Act 2000 introduced new ways of governing local authorities. Principal Councils were required to have an Executive and one or more Scrutiny Committees.
- 3.2 ***The Current Position***  
In May 2002 this Council decided to establish the Cabinet to undertake the role of the Executive and three Overview and Scrutiny Committees to fulfil a scrutiny role. Some local authorities at that time established an Audit Committee, as they considered that from a corporate governance viewpoint that Committee would provide an independent assurance about the adequacy of financial management and reporting.
- 3.3 ***Audit Commission***  
More recently the Audit Commission, in a corporate national report on Stewardship and Governance, issued in July 2005, expressed its concern that less than half of local authorities had a formally constituted Audit Committee. It

was the Commission's opinion that the absence of an effective Audit Committee was a fundamental weakness in a local government body's governance arrangements.

- 3.4 To further encourage those local authorities who have not established an Audit Committee, the Audit Commission has included in their 'Use of Resources' Key Lines of Enquiry (KLOE) for future CPA reviews, a requirement that to achieve the highest possible score, local authorities must have an Audit Committee.
- 3.5 The Council has always been commended as having relatively strong financial management arrangements and has scored well in this area as a result. We have always taken the view that we should learn from the best practice of others and been prepared to carefully consider what the Audit Commission and indeed CIPFA have to recommend in terms of improving our arrangements.
- 3.6 One of the reasons for the Audit Commission setting out KLOEs is to encourage local authorities that do not at the moment fully comply, to put arrangements in place to meet the criteria over time. There will be other criteria that the Council will need to achieve to gain the maximum score and these are all being addressed. It is therefore appropriate to give consideration to the issue surrounding the adoption of an Audit Committee as we move forward with this agenda.

#### ***Chartered Institute of Public Finance and Accountancy (CIPFA)***

- 3.7 CIPFA has recently issued a guidance note, '*Audit Committees – Practical Guidance for Local Authorities*', in an effort to encourage all authorities to put an Audit Committee in place, if they do not already have one, and help make the established Audit Committees become more effective.
- 3.8 CIPFA has listened to a wide spectrum of opinion on the subject of Audit Committees and accepts that in local government there is a diversity of views about the added value, which Audit Committees bring to the governance arrangements within authorities. It agrees that a prescriptive 'one size fits all' statement would therefore be inappropriate and unhelpful but suggests that what is important is that the functions of Audit Committees are discharged effectively and are recognised for their significance in relation to overall governance.
- 3.9 CIPFA suggests that good Corporate Governance requires effective assurance about the adequacy of financial management and reporting. It suggests that effective Audit Committees help raise the profile of internal control, risk management and financial reporting issues, within an organisation as well as providing a forum for the discussion of issues raised by Internal and External Auditors or any other inspection agencies.
- 3.10 CIPFA believes that the functions of an Audit Committee are best delivered by a Committee which is separate and independent from Executive and Scrutiny functions, and chaired independently from both these functions. CIPFA acknowledges that the link with the scrutiny function can be beneficial but suggests that the ultimate power of the Audit Committee could be compromised by too much cross membership. It states that the Audit Committee needs to retain the ability to challenge the Executive on issues and to report to it on major issues and contraventions. CIPFA therefore suggests that a cross membership



should not be the norm and, if it is seen as necessary, should be restricted to one member from the Executive and one from Scrutiny.

3.11 As CIPFA does not wholly endorse any one particular model, it is therefore for this Council to determine the membership of the Committee. A number of options would include:

- *To have a number of members who are all independent of Cabinet or Overview and Scrutiny Committee responsibilities.*
- *To allow no more than one member from Cabinet and one member from Overview and Scrutiny Committee to serve on the Audit Committee.*
- *A combination of the above two options.*

3.12 CIPFA also suggests that the Committee must have a clear right of access to full Council, other Council Groups and Committees.

3.13 Although CIPFA suggests that the case for separating Audit Committees from the Executive is clear and self-evident, it recognises that some authorities have already set up Audit Committees as part of Scrutiny structures. CIPFA suggests that the role of Scrutiny is to review policy and challenge whether the Executive has made the right decisions to deliver policy objectives. It argues that this is different from the role of the Audit Committee, which should provide an independent assurance that there are adequate controls in place to mitigate key risks and to provide an assurance that the Council, including the Scrutiny function, is operating effectively. CIPFA also recommends that an Audit Committee should be separate, organisationally and practically, from both the Executive and Scrutiny functions.

#### **4. STATEMENT OF PURPOSE**

4.1 CIPFA suggests that if an Audit Committee is to be established, a Statement of Purpose should be formally approved, along the following lines:-

*“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 Council’s financial and non-financial performance to the extent that it affects the Council’s exposure to risk and weakens the control environment, and to oversee the financial reporting process.”*

*Proposal: That the Council formally approves the Statement of Purpose as shown above.*

#### **5. CORE FUNCTIONS**

5.1 CIPFA suggests a number of core functions that an Audit Committee should be responsible for and these are shown at Appendix 1. A number of other suggested functions are also identified in the Appendix, which might be appropriate for this Council to consider.

*Proposal: That the Council agrees the role and functions of the Audit Committee as shown in the attached Appendix 1.*

#### **6. FEATURES**

6.1 CIPFA suggests that a good Audit Committee will be characterised by:-

- A strong Chair \* – displaying a depth of skills and interest.
- Unbiased attitudes – treating Auditors, the Executive and Management equally.
- The ability to challenge the Executive (Leader or Chief Executive) when required.
- A membership that is balanced, objective, independent of mind and knowledgeable.

**NOTE:**

*CIPFA suggests that there are many personal qualities needed to be an effective Chair, but key to these are promoting a political open discussion, managing meetings to cover all business and encouraging a candid approach from all participants. It also suggests that an effective Chair should have an interest in and knowledge of financial management.*

## **7. STRUCTURE**

7.1 Although CIPFA does not prescribe a single model for an Audit Committee, it suggests that it should:-

- Be independent of the Executive and Scrutiny functions.
- Have clear reporting lines and rights of access to other Committees/functions, for example Scrutiny and Service Committees, any corporate boards or other strategic groups.
- Meet regularly – about four times a year, and have a clear policy on those items to be considered in private and those to be considered in public.
- Meet with the External Auditor and Head of Internal Audit.
- Include as regular attendees, the Section 151 Officer (the Director of Resources) or Deputy, the Head of Internal Audit and appointed External Auditor and Relationship Manager. Other attendees may include the Monitoring Officer (for any Standards issues) and the Chief Executive. CIPFA suggests that these officials should also be able to have access to the Committee or Chair, as required. CIPFA also suggests that the Committee should have the right to call any other officers or agencies of the Council as required.
- Be properly trained to fulfil their role.

*Proposal: The Council endorses the principles outlined by CIPFA in relation to the structure of an Audit Committee as shown in paragraph 7.1 and integrated into Appendix 1 of the report.*

## **8. COMPOSTION**

8.1 CIPFA suggests that although the size of an Audit Committee is relevant, it is not crucial. It argues that too small a number of members and political balance may be difficult to achieve; too large a number and meetings may become unwieldy. CIPFA suggests that co-option from outside the authority may well be beneficial as often the injection of an external view, for specific discussions, can be seen as bringing a new approach to Committee discussions. According to CIPFA, many authorities have made provision to co-opt Members but some have not bestowed voting rights on that Member, which would allow flexibility in co-option and retains the decision making function for permanent Members of the Committee.

*Proposal: Taking into account CIPFA's comments as shown in paras. 3 and 8 above, it is proposed that an appropriate composition of an Audit Committee of this Council, should be politically balanced and one of the following options be agreed:*

- *The Committee should be composed of six members, none of whom are members of Cabinet or Overview and Scrutiny Committees.*
- *The Committee should be composed of six members, with not more than one member from each of Cabinet and Overview and Scrutiny Committees.*
- *A combination of the above options.*

*It is also proposed that one member of the Committee should be co-opted. The co-opted member would ideally live within the Borough and have some knowledge, expertise or interest in the work of the Committee. No Councillor or Officer of this Council could serve as a co-opted member on this Committee.*

*It is proposed that any co-opted member of this Committee would be subject to the Members' Code of Conduct.*

*These proposals are summarised in Appendix 1 to the report.*

## **9. CONCLUSION**

- 9.1 When the Council's Constitution was agreed in 2002, there was not the same level of emphasis being placed on the need to have an Audit Committee and therefore it was not put forward as something that members needed to consider when the functions of the Cabinet, Overview and Scrutiny and other Committees were being agreed.
- 9.2 A present some of the functions of an Audit Committee, as recommended by CIPFA, have been partially split between Cabinet (e.g. Risk Management) and Overview and Scrutiny (e.g. Audit and Internal Control arrangements). The creation of a separate Audit Committee will mean that the existing responsibilities of Cabinet and Overview and Scrutiny Committees will need to be reviewed and proposals to amend the Constitution are shown in Appendix 2.
- 9.3 Similarly the composition of an Audit Committee would have to be agreed and a special responsibility allowance determined for the Chair and Vice-Chair.
- 9.4 It is considered that in principle the Council will benefit from the establishment of an Audit Committee and there are a number of proposals incorporated into the report, which could integrate an Audit Committee into the Council's Constitution.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 It would be necessary to arrange for the Independent Panel to determine an appropriate level of special responsibility allowance for at least the Chair of this new Committee and potentially a Deputy Chair also. It is anticipated that these costs would not be significant.

10.2 Appropriate training for members of the Audit Committee would also be required and an adequate budget would need to be provided.

## 11. CONSULTATION

11.1 The purpose of this report is to allow Members to consider the implications of the establishment of an Audit Committee and is therefore a consultative document. Cabinet approved this Report on 13<sup>th</sup> April 2006

## 12. OTHER MATERIAL CONSIDERATIONS

### ***Links to Corporate Objectives/Values***

12.1 The consideration being given to the establishment of an Audit Committee ensures that the Council's corporate values are being taken into account, in particular:-

- That it is being open, accessible, equitable, fair and responsive.
- That consultation is taking place.
- That the Council is being responsible with and accountable for public finances.
- That the Council is seeking to achieve continuous improvement and innovation in service delivery.

### ***Risk Management***

12.2 The absence of an Audit Committee may make it more difficult for the Council to demonstrate to the Audit Commission that the Council has a robust arrangement in place to provide independent assurance of the adequacy of the risk management framework and the associated control environment.

### ***Health and Safety***

12.2 There are no additional Health and Safety implications as a consequence of this report.

### ***Equality and Diversity***

12.3 No Equality and Diversity issues have been identified.

### ***Legal and Constitutional***

12.4 There are proposed changes to the Constitution incorporated within the content of this report. This Report therefore is to be placed before Council for its approval under Article 15 of the Constitution

### ***Overview and Scrutiny***

12.5 As mentioned above, the functions, responsibilities and membership of the existing Overview and Scrutiny Committees will need to be considered.

12.6 There are no other material considerations to take into account.

Contact Officer: Harold Moses

Telephone No.: 01388-816166 ext. 4385  
E-Mail Address: [hmoses@sedgefield.gov.uk](mailto:hmoses@sedgefield.gov.uk)  
Key Decision Validation:

Appendices: Appendix 1 – Key Functions of an Audit Committee.

Background Papers: Audit Commission Report – Stewardship and Governance 2004.  
CIPFA – Audit Committees – Practical Guidance for Local Authorities.  
Various reports to the Council amending the Constitution.

	<b>Yes</b>	<b>Not Applicable</b>
1. The report has been examined by the Council's Head of the Paid Service or his representative.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S.151 Officer or his representative.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Management Team has approved the report.	<input checked="" type="checkbox"/>	<input type="checkbox"/>



## SEDGEFIELD BOROUGH COUNCIL

### AUDIT COMMITTEE

#### PROPOSED AMENDMENTS TO THE CONSTITUTION

## Article 10 – The Audit Committee

### 10.1 Audit Committee

The Council meeting will establish and Audit Committee.

### 10.2 Composition

#### (a) *Membership*

The Audit Committee will be composed of: -

- Six members, all independent of Cabinet and not more than one having Overview and Scrutiny Committee responsibilities; plus
- one co-opted member who is not a Councillor or Officer of the Council or any other body having an Audit Committee.

#### (b) *Co-opted Members*

The Co-opted Member will not be entitled to vote at meetings.

#### (c) *Chairing the Committee*

- Chair and Vice-Chair of the Audit Committee will be appointed at the Annual Council meeting.
- The Chair must not be a member of Cabinet or Overview and Scrutiny Committees.
- If the position of Chair or Vice-Chair becomes vacant during the year, the position will be filled at the next appropriate Council meeting.

#### (d) *Quorum*

A Quorum for a meeting of the Audit Committee will be 3 Members.

### 10.3 Role and Function

The Audit Committee will have the following role and function:-

- (a) To consider the effectiveness of the Council's Risk Management arrangements, the control environmental and associated anti-fraud and anti-corruption arrangements. To report at least annually to Cabinet on the effectiveness of the Risk Management arrangements.

- (b) To seek assurances that action is being taken on risk related issues, identified by Auditors and Inspectors.
- (c) To be satisfied that the Council's Assurance Statements, including the Statement of Internal Control, properly reflect the risk environment and any actions required to improve it.
- (d) To approve the Council's Internal Audit Strategy Plan, Annual Audit Plan and monitor performance against all associated plans
- (e) To review summary Internal Audit reports and the main issues arising and seek assurance that action has been taken where necessary.
- (f) To receive an Annual Report from the Head of Internal Audit.
- (g) To ensure that 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.
- (h) To review financial statements, including the Council's Statement of Accounts, External Auditor's and other inspection agencies opinions and reports to Members and monitor management action in response to the issues raised by External Audit and other inspection agencies.
- (i) For the Chair and Vice-Chair to meet privately and separately at least once a year with the External Auditor and Head of Internal Audit.
- (j) To have the right to call any officers of the Council as required.
- (k) To consider performance and best value issues to the extent that they relate to the audit and control environment and risk management issues of the Council.

*Note: For the purpose of these roles and functions 'Audit' relates to corporate issues, complaints, inquiries, financial probity and such other matters as may be decided by the Council.*

#### **10.4 Frequency of Meetings**

The Committee shall meet on four occasions annually.



**SEDGEFIELD BOROUGH COUNCIL**

**AUDIT COMMITTEE**

**CONSEQUENTIAL AMENDMENTS TO OTHER PARTS OF THE CONSTITUTION**

**Part 2 – Articles of the Constitution**

***Insert –***

new Article 10 – The Audit Committee

***Re-number –***

existing Articles 10 to 16 to Articles 11 to 17

**Article 6 – Overview and Scrutiny Committees**

6.03 Specific Functions (b) Scrutiny

***Remove –***

(vii) Review the Statement of Internal Control and consider it separately from the Accounts.

***Remove –***

(viii) Review and Scrutinise the Council's Audit activities.

**Part 4 – Rules of Procedure**

**F Financial Regulations 4 Risk Management and Control of Resources**

***Remove -***

4.2.1 Cabinet is responsible for approving the Council's Risk Management Policy and Strategy and for reviewing the effectiveness of Risk Management.

***Add -***

4.2.1 Cabinet is responsible for approving the Council's Risk Management Policy and Strategy. The Audit Committee will review the effectiveness of Risk Management and present a report annually to Cabinet on its effectiveness.

This page is intentionally left blank

# Item 4

## STANDARDS COMMITTEE

5<sup>th</sup> MAY 2006

### REPORT OF CHIEF EXECUTIVE OFFICER

#### REVIEW OF THE CONSTITUTION – MEMBER INVOLVEMENT PROPOSED CHANGES TO ‘CALL-IN’ PROCEDURE

##### SUMMARY

The Council's Constitution was adopted on the 24th May 2002 as part of the Council's approach to implementing the Local Government Act 2000. A number of reviews have taken place since that time.

The Constitution itself must necessarily be kept under regular review so as to ensure that it reflects existing law and its operation continues to provide an efficient and effective framework for delivering the Council's aims and objectives.

Procedures have been agreed to provide for the engagement of Members in the Council's processes for the review of the Constitution. This report proposes amendments to the Constitution that have been initiated by members of Overview & Scrutiny Committees.

##### RECOMMENDATIONS

1. That the call-in rules be amended on a pilot basis to enable 3 Members of an appropriate Overview & Scrutiny Committee to call-in a key decision within 5 days of the decision being published.
2. That the pilot arrangements be reviewed before the Annual Council meeting to be held in May 2007.
3. That consequential changes be made to the Constitution as necessary.
4. That Standards Committee be consulted on the proposals prior to approval being sought at Council.

## DETAIL

1. Article 15 of the Constitution provides that the operation of the Constitution will be monitored and reviewed to ensure its aims and principles are given full effect. Changes require the approval of the Council, after consideration by the Chief Executive Officer.
2. Officer arrangements are discussed via the Constitutional Review Group and are embedded within the process of review. The Council's Solicitor and Monitoring Officer heads a team of officers which reviews functional and operational arrangements for decision taking, including delegations to officers, and reports are submitted to the Standards Committee and Council from time to time in respect of these matters.
3. There is now a formal mechanism to allow Members to raise matters which they would like to have considered in a report reviewing the constitution. This process is set out below.
  - The work schedules of Overview & Scrutiny Committee annually include an item inviting Members to identify and submit proposals for changes to the Constitution.
  - The Chief Executive Officer is formally notified of such proposals.
  - The Chief Executive Officer will then convene a meeting of the Chairman of the Cabinet and Chairs of the Overview and Scrutiny Committee to discuss, consider and, if amendments are accepted, draft proposals for changes and amendments.
  - If proposals are taken forward they will form part of a report by the Chief Executive to be submitted to the Council for formal approval.
4. The Council's three Overview & Scrutiny Committees each considered the operation of the Constitution at their meetings held in February/March 2006 and made several proposals for amendments. In accordance with the above procedure the Chief Executive Officer was informed of the proposals, which were considered at a meeting with the Chairman of the Cabinet and Chairs of the Overview and Scrutiny Committee held on 7<sup>th</sup> April 2006. Notes of the meeting are attached at Appendix 1 for information.
5. Following detailed consideration of Overview & Scrutiny Members' suggestions, it was proposed that the call-in procedures be amended on a 12 month pilot basis to enable 3 Members of an appropriate Overview & Scrutiny Committee to call-in a key decision within 5 days of the decision being published. The purpose of the call-in procedure is to allow the appropriate Overview & Scrutiny Committee to require Cabinet, or an officer with delegated authority making a key-decision on behalf of Cabinet, to reconsider a key decision where it considers that there are compelling grounds for review. This inevitably causes a delay in the decision being made. There is an inherent risk that in relaxing the rules the number of call-in requests may increase to an extent that result will be

a slowing down of decision making. The revised rules will therefore be reviewed prior to the Annual Council Meeting in May 2007.

## **CONSULTATION**

6. Proposals have been formulated in accordance with agreed procedures to provide for the engagement of Members in the Council's processes for the review of the Constitution

## **OTHER MATERIAL CONSIDERATIONS**

7. **Links to Corporate Objectives/Values**  
The proposed amendments to the Constitution relate to procedural arrangements to further improve scrutiny of executive decisions. The proposals, if approved, will support the achievement of the Council's overall corporate aims through the political process, but do not relate directly to specific corporate objectives/values.
8. **Sustainability**  
No additional implications have been identified.
9. **Risk Management**  
The relaxation of the call-in rules may result in many more key decisions being called-in, which could lead to a slowing down of decision-making. The effect of the amendments will be monitored and reviewed before the Annual Council Meeting in May 2007.
10. **Health and Safety**  
No additional implications have been identified.
11. **Equality and Diversity**  
No material issues have been identified.
12. **Legal and Constitutional**  
The proposals, if agreed, will necessitate amendments to the Council's Constitution.
13. **Procurement**  
No implications have been identified

## **OVERVIEW AND SCRUTINY IMPLICATIONS**

14. The proposals were initiated by the Council's Overview & Scrutiny Committees. If agreed they will result in amendment to the 'call-in' rules which will allow Overview & Scrutiny Members more opportunity to examine the key decisions.

**Contact Officer:** D. Anderson, Principal Democratic Services Officer  
**Telephone No:** (01388) 816166, Ext. 4109  
**Email Address:** danderson@sedgefield.gov.uk

**Ward(s)** Not ward specific

**Key Decision Validation** N/A

### Background Papers

- Sedgefield Borough Council's Constitution
- Overview & Scrutiny Committee 1, 'Constitutional Review – Member Involvement' - 14<sup>th</sup> February 2006
- Overview & Scrutiny Committee 2, 'Constitutional Review – Member Involvement' - 28<sup>th</sup> February 2006
- Overview & Scrutiny Committee 3, 'Constitutional Review – Member Involvement' - 14<sup>th</sup> March 2006
- Centre for Public Scrutiny paper - "The Call-in Procedure – an Investigation into the Call-in Procedure Across English Local Authorities"
- Centre for Public Scrutiny, Scrutiny Survey 2005

### Examination by Statutory Officers

	Yes	Not Applicable
1. The report has been examined by the Council's Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S.151 Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Constitutional Review - Member Involvement

### Meeting with Leader and Chairmen of Overview & Scrutiny Committees

7<sup>th</sup> April 2006

#### Notes of Meeting

Present: Councillors R.S. Fleming, V. Crosby, A. Gray and J.E. Higgin  
N. Vaulks, B. Allen, J.G. Turnbull and D. Anderson

In accordance with agreed procedures the Leader of the Council, Chairmen of Overview and Scrutiny Committees and the Chief Executive met to consider proposals made by Overview and Scrutiny Committees to amend the Council's Constitution. The incoming Chief Executive, Head of Democratic Services and Principal Democratic Services Officer were also invited to attend the meeting.

Members considered the following proposals.

**1. That the current Overview and Scrutiny Committees be replaced with a single Scrutiny Committee**

Members noted that research recently undertaken by the Centre for Public Scrutiny revealed that only 6% of Authorities had one Overview & Scrutiny Committee that did all the work. The most popular structure had multiple committees reflecting Cabinet Portfolios (34%). However it was explained that a growing trend was for multiple Overview & Scrutiny Committees that reflect the community plan priorities (currently 8%).

It was noted that Cabinet would consider the establishment of an Audit Committee at its meeting on 13<sup>th</sup> April 2006. The potential implications for Overview & Scrutiny Committee 1 were considered. Members were of the view that if an Audit Committee was established its responsibilities would have only a minor impact on the role of Overview & Scrutiny Committee 1.

**Agreed:** That the 3 Overview & Scrutiny Committees should continue as currently established.

**2. That the call-in procedure be reviewed to ensure it was not excessively onerous.**

Members were reminded that call-in was intended to be used only in exceptional circumstances. The current procedure allowed call-in of a key-decision when 5 Members of the appropriate Overview & Scrutiny Committee had evidence which suggested that the Cabinet, or an officer with delegated authority from Cabinet, did not make a key decision in accordance with the principles of decision making set out in Article 13 of the Council's Constitution. The call-in had to be requested within 5 days of the decision being published.

Consideration was given to research that had been undertaken to identify best practice across the North East. The Centre for Public Scrutiny (CfPS) had also recently published a paper following an investigation into the call-in procedure across English Local Authorities, which was also considered.

The CfPS's investigation concluded that the dominant model would allow 5 days to call in a decision following its publication with at least 3 authorised signatories being required to do so, comprising either Overview & Scrutiny Committee Members, or non-executive Councillors. The most popular model in the North East required 3 Members to call-in a decision within 5 days of it being published.

It was explained that there was a fine balance to be struck to make call-in effective. If the process was made too easy it could result in many more call-ins, which lead to a slowing down of decision-making. Conversely, if it was made too difficult it would not be possible to demonstrate that key decisions made by the executive were being held to account.

The current call-in rules at this Council required 36%-38% of an O&S Committee to sign a call-in request. A reduction to 4 Members to call-in a decision would equate to 29% - 31%, whilst a reduction to 3 Members would result in 21% - 23%. The average percentage of eligible Members required to call-in a decision in the North East was 25%.

- Recommended:
- 1 That the call-in rules be amended on a pilot basis to enable 3 Members of an appropriate Overview & Scrutiny Committee to call-in a key decision within 5 days of the decision being published.
  2. The pilot arrangements were to be reviewed before the Annual Council meeting to be held in May 2007.

**3. That the Council should meet on a monthly basis**

Meetings of Council are currently scheduled to be held 7 times a year. Additional meetings are arranged when necessary. For example an additional meeting was held in March 2006 in order to deal with the appointment a new Chief Executive.

Members thought that it was unnecessary to increase the number of scheduled meetings.

Agreed: That meetings of Council continue to be scheduled to be held 7 times a year.

**4. Non-Cabinet Members should be able to speak at Cabinet meetings**

Members were of the opinion that the responsibilities of each element of the political structure should be respected. Cabinet should be allowed to carry out their executive decision making responsibilities. Key decisions were subject to call-in. The call-in rules were to be relaxed which would allow Overview & Scrutiny Members more opportunity to examine the key decisions made by Cabinet.



Agreed

That Non-Cabinet Members should not be allowed to speak at Cabinet meetings.

**5. Introduction of electronic voting in the Council Chamber, to ensure Members were not unduly influenced by Members of the public, particularly during Development Control meetings.**

Members were of the opinion that decision-making should be open and transparent.

Agreed;

That Members continue to vote at meetings by show of hands.

This page is intentionally left blank