

Report for Resolution

Report to Council
21 October 2008
Report of Constitution Working Party
Subject Amendments to the Constitution

Item

8

Purpose

To adopt a revised Code of Governance and procedures for the appointment of substitute members of Committees and Sub-Committees'.

Report

1. The Constitution Working Party considered the appended reports of the Head of Finance 'Revised Code of Conduct' and Head of Legal and Democratic Services 'Appointment of Substitute Members of Committees and Sub-Committees' at its meeting on 29 September 2008 and supported the recommendations.
3. The Constitution Working Party therefore **recommends:-**

 'That Council adopts:-
 - (1) the revised Code of Governance, Appendix 20A of the Constitution;
 - (2) the procedures for the appointment of substitute members for committees and to amend Appendix 1 of the Constitution.

Report for Resolution

Report to	Constitution Working Party 29 September 2008	Item
Report of	Head of Finance	
Subject	Revised Code of Governance	

Purpose

To note the revised code of governance for recommendation to Council.

Recommendations

That Council is recommended to adopt the revised Appendix 20A – Code of Governance.

Financial Consequences

The financial consequences of this report are none.

Strategic Objective/Service Priorities

The report helps to achieve the corporate objective to provide strong and ambitious leadership to make the City proud of its Council.

Contact Officers

Barry Marshall, Head of Finance	01603 21 2556
Steve Dowson, Principal Financial Consultant	01603 21 2575

Background Documents

None

Report

Background

1. Corporate governance is the term used to describe the system by which local authorities direct and control their functions and relate to their communities.
2. In 2001 CIPFA and SOLACE produced a framework of good governance for use in local government. The framework recommended that local authorities review their existing governance arrangements and report annually on their effectiveness in practice.
3. In March 2003 the council adopted a code of corporate governance, which is in appendix 20A of the constitution.
4. For several years the council has reported a 'Statement on Internal Control' (SIC), signed by the Leader and Chief Executive, as part of its annual statement of accounts.
5. Under the Accounts and Audit (Amendment) (England) Regulations 2006 there is a requirement to review the council's existing code of corporate governance and to report an annual governance statement instead of the SIC.
6. Updated guidance for the review of the council's existing code and for the preparation, review and reporting of the new statement has been issued by CIPFA and SOLACE.

The New Framework

7. CIPFA and SOLACE have published a revised framework document and a guidance note for '*Delivering Good Governance in Local Government*'.
8. The revised framework emphasises the importance of good governance to the wider outcomes of good management, good performance and good public engagement. It also puts high standards of conduct and leadership at the heart of good governance. These should help to ensure that the council is clear about its objectives and is focused on their delivery in a manner which is efficient, effective, economical and ethical.
9. The framework draws on six core principles, shown below, which were set out in 'The Good Governance Standard for Public Services (2004)':
 - 1) Focusing on the purpose of the council and on outcomes for the community and creating and implementing a vision for the local area
 - 2) Members and officers working together to achieve a common purpose with clearly defined functions and roles
 - 3) Promoting the values for the council and demonstrating the values of good governance through upholding high standards of conduct and behaviour
 - 4) Taking informed and transparent decisions which are subject to effective scrutiny and managing risk
 - 5) Developing the capacity and capability of members and officers to be effective
 - 6) Engaging with local people and other stakeholders to ensure robust public accountability

10. The core principles are underpinned by supporting principles, and for each of these there are specific requirements which demonstrate how compliance with the principles is being achieved.
11. The guidance accompanying the framework aims to assist the council in testing its current governance structures against the principles in the new published framework by:
 - Reviewing existing governance arrangements against the framework
 - Developing and maintaining an up to date local code of governance, including arrangements for ensuring its ongoing application and effectiveness
 - Preparing an annual governance statement in order to report publicly on the extent to which we comply with our own code, including how we have monitored the effectiveness of the governance arrangements in the year, and on any planned actions in the coming period.

The Code of Governance

12. The CIPFA and SOLACE guidance note sets out a schedule to assist in putting the good governance principles into practice. It describes what the council's code of governance should now contain and gives examples of source documents, good practice and other means that may be used to demonstrate compliance.
13. The corporate management team (CMT) has reviewed the framework and guidance and has proposed that section 3 of the framework should form the basis of a new code of governance for the council. Once approved this will replace the current code which forms appendix 20A of the constitution.
14. The proposed code was presented to Audit Committee in March 2008 and no amendments were necessary as a result of the meeting.
15. The proposed new code of governance is shown at appendix 1.
16. Council will be asked to formally adopt the new code and all members of the council will be given a copy of the framework.

Summary

17. Once approved, compliance with the code of governance will be assessed and reported annually in a governance statement accompanying the statement of accounts.
18. The annual governance statement will be presented to Audit Committee for review.
19. The code of governance will be reviewed and updated as necessary.

CODE OF GOVERNANCE

1. What we mean by Governance

- 1.1 Governance is about how the council ensures it is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.
- 1.2 It comprises the systems and processes, and cultures and values, by which the council is directed and controlled and through which it accounts to, engages with and, where appropriate, leads its community.
- 1.3 This local code of governance has been developed in accordance with and is consistent with the *Delivering Good Governance in Local Government* framework.

2. Core Principles of Good Governance

- 2.1 The core governance principles of the council are:-
 - (a) focusing on the purpose of the council and on outcomes for the community and creating and implementing a vision for the local area;
 - (b) members and officers working together to achieve a common purpose with clearly defined functions and roles;
 - (c) promoting values for the council and demonstrating the values of good governance through upholding high standards of conduct and behaviour;
 - (d) taking informed and transparent decisions which are subject to effective scrutiny and managing risk;
 - (e) developing the capacity and capability of members and officers to be effective; and
 - (f) engaging with local people and other stakeholders to ensure robust public accountability

3. Applying the Core Principles of Good Governance

- 3.1 The six core principles have a number of supporting principles, which in turn have a range of specific requirements that apply across the council's business:

1. Focusing on the purpose of the council and on outcomes for the local community and creating and implementing a vision for the local area	
Supporting principles	Requirements
<ul style="list-style-type: none"> Exercising strategic leadership by developing and clearly communicating the council's purpose and vision and its intended outcome for citizens and service users. 	<ul style="list-style-type: none"> Develop and promote the council's purpose and vision. Review on a regular basis the council's vision for the local area and its impact on the council's governance arrangements. Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all partners. Publish an annual report on a timely basis to communicate the council's activities and achievements, its financial position and performance.
<ul style="list-style-type: none"> Ensuring that users receive a high quality of service whether directly, or in partnership, or by commissioning. 	<ul style="list-style-type: none"> Decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available. Put in place effective arrangements to identify and deal with failure in service delivery.
<ul style="list-style-type: none"> Ensuring that the council makes best use of resources and that tax payers and service users receive excellent value for money. 	<ul style="list-style-type: none"> Decide how value for money is to be measured and make sure that the council or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions.

2. Members and officers working together to achieve a common purpose with clearly defined functions and roles.	
Supporting principles	Requirements
<ul style="list-style-type: none"> Ensuring effective leadership throughout the council and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function. 	<ul style="list-style-type: none"> Set out a clear statement of the respective roles and responsibilities of the executive and of the executive's members individually and the council's approach towards putting this into practice. Set out a clear statement of the respective roles and responsibilities of other council members, members generally and senior officers.

Appendix to Appendix 1
APPENDIX 20A

<ul style="list-style-type: none"> Ensuring that a constructive working relationship exists between council members and officers and that the responsibilities of members and officers are carried out to a high standard. 	<ul style="list-style-type: none"> Determine a scheme of delegation and reserve powers within the constitution, including a formal schedule of those matters specifically reserved for collective decision of the council, taking account of relevant legislation, and ensure that it is monitored and updated when required. Make a chief executive or equivalent responsible and accountable to the council for all aspects of operational management. Develop protocols to ensure that the leader and chief executive (or equivalents) negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained. Make a senior officer (the S.151 officer) responsible to the council for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control. Make a senior officer (usually the monitoring officer) responsible to the council for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with.
<ul style="list-style-type: none"> Ensuring relationships between the council, its partners and the public are clear so that each knows what to expect of the other. 	<ul style="list-style-type: none"> Develop protocols to ensure effective communication between members and officers in their respective roles. Set out the terms and conditions for remuneration of members and officers and an effective structure for managing the process, including an effective remuneration panel (if applicable). Ensure that effective mechanisms exist to monitor service delivery. Ensure that the council's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other stakeholders, and that they are clearly articulated and disseminated. When working in partnership, ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the council.

	<ul style="list-style-type: none"> • When working in partnership: <ul style="list-style-type: none"> - ensure that there is clarity about the legal status of the partnership. - ensure that representatives of organisations both understand and make clear to all other partners the extent of their authority to bind their organisations to partnership decisions.
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3. Promoting values for the council and demonstrating the values of good governance through upholding high standards of conduct and behaviour

Supporting principles	Requirements
<ul style="list-style-type: none"> • Ensuring council members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance. 	<ul style="list-style-type: none"> • Ensure that the council's leadership sets a tone for the organisation by creating a climate of openness, support and respect. • Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the council, its partners and the community are defined and communicated through codes of conduct and protocols. • Put in place arrangements to ensure that members and staff of the council are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice.
<ul style="list-style-type: none"> • Ensuring that organisational values are put into practice and are effective. 	<ul style="list-style-type: none"> • Develop and maintain shared values including leadership values for both the council and staff reflecting public expectations and communicate these with members, staff, the community and partners. • Put in place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice. • Develop and maintain an effective standards committee. • Use the council's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the council. • In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by

	partners' behaviour both individually and collectively.
4. Taking informed and transparent decisions which are subject to effective scrutiny and managing risk	
Supporting principles	Requirements
<ul style="list-style-type: none"> • Being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny. 	<ul style="list-style-type: none"> • Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the council's performance overall and that of any organisation for which it is responsible. • Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based. • Put in place arrangements to safeguard members and staff against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice. • Develop and maintain an effective audit committee which is independent of the executive and scrutiny functions. • Ensure that effective, transparent and accessible arrangements are in place for dealing with complaints.

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<ul style="list-style-type: none"> • Having good-quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs. 	<ul style="list-style-type: none"> • Ensure that those making decisions whether for the council or the partnership are provide with information that is fit for the purpose – relevant, timely and gives clear explanations of the technical issues and their implications. • Ensure that proper professional advice on matter that have legal or financial implications is available and recorded well in advance of decision making and used appropriately.
<ul style="list-style-type: none"> • Ensuring that an effective risk management system is in place. 	<ul style="list-style-type: none"> • Ensure that risk management is embedded into the culture of the council, with members and managers at all levels recognising that risk management is part of their jobs. • Ensure that effective arrangements for whistleblowing are in place to which members, staff, all those contracting with or appointed by the council and members of the public have access.
<ul style="list-style-type: none"> • Using our legal powers to the full benefit of the citizens and communities in our area. 	<ul style="list-style-type: none"> • Actively recognise the limits of lawful activity placed on us by, for example, the ultra vires doctrine, but also strive to utilise our powers to the full benefit of our communities. • Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities place on councils by public law. • Observe all specific legislative requirements placed upon us, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationality, legality and natural justice – into our procedures and decision-making processes.

5. Developing the capacity and capability of members and officers to be effective

Supporting principles	Requirements
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<ul style="list-style-type: none"> • Making sure that members and officers have the skills, knowledge, experience and resources they need to perform well in their roles. 	<ul style="list-style-type: none"> • Provide induction programmes tailored to individual needs and opportunities for members and officers to update their knowledge on a regular basis. • Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the council.
<ul style="list-style-type: none"> • Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group. 	<ul style="list-style-type: none"> • Assess the skills required by members and officers and make a commitment to develop those skills to enable roles to be carried out effectively. • Develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed. • Ensure that effective arrangements are in place for reviewing the performance of the executive as a whole and of individual members and agreeing an action plan which might, for example, aim to address any training or development needs.
<ul style="list-style-type: none"> • Encouraging new talent for membership of the council so that best use can be made of individuals' skills and resources in balancing continuity and renewal. 	<ul style="list-style-type: none"> • Ensure that effective arrangements are in place designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the council. • Ensure that career structures are in place for members and officers to encourage participation and development.

6. Engaging with local people and other stakeholders to ensure robust public accountability	
Supporting principles	Requirements
<ul style="list-style-type: none"> • Exercising leadership through a robust scrutiny function which effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships. 	<ul style="list-style-type: none"> • Make clear to ourselves, all staff and the community to whom we are accountable and for what. • Consider those institutional stakeholders to whom the council is accountable and assess the effectiveness of the relationships and any changes required. • Produce an annual report on the activity of the scrutiny function.
<ul style="list-style-type: none"> • Taking an active and planned approach to 	<ul style="list-style-type: none"> • Ensure that clear channels of communication are in place with all sections of the community and other

<p>dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the council, in partnership or by commissioning.</p>	<p>stakeholders, and put in place monitoring arrangements and ensure that they operate effectively.</p> <ul style="list-style-type: none"> • Hold meetings in public unless there are good reasons for confidentiality. • Ensure that arrangements are in place to enable the council to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands. • Establish a clear policy on the types of issues we will meaningfully consult on or engage with the public and service users about, including a feedback mechanism for those consultees to demonstrate what has changed as a result. • On an annual basis, publish a performance plan giving information on the council's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period. • Ensure that the council as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so.
<ul style="list-style-type: none"> • Making best use of human resources by taking an active and planned approach to meet responsibility to staff. 	<ul style="list-style-type: none"> • Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making.

4. Annual Review and Reporting

- 4.1 Each year the council will carry out a review of its governance arrangements to ensure compliance with this code, the *Delivering Good Governance in Local Government* framework and current good practice. The purpose of the review will be to provide assurance that governance arrangements are adequate and operating effectively or to identify action which is planned to ensure effective governance in the future.
- 4.2 The outcome of the review will take the form of a governance statement prepared on behalf of the leader at the council and chief executive. It will be submitted to the audit committee for consideration and review.

- 4.3 The preparation and publication of the governance statement will meet the statutory requirement of the accounts and audit regulations which require authorities to “conduct a review at least once in a year of the effectiveness of its system of internal control” and to prepare a statement on internal control “in accordance with proper practices”. As such the governance statement will be included in the published accounts in accordance with the accounts and audit regulations.

Report for Resolution

Report to	Constitution Working Party 29 September 2008	Item
Report of	Head of Legal and Democratic Services	
Subject	Appointment of Substitute Members of Committees and Sub-Committees	

Purpose

To consider procedures for the appointment of substitute members of committees and sub-committees.

Recommendations

To ask Council to adopt the procedures for the appointment of substitute members for committees and to amend the Council's constitution as set out in the appendix to this report.

Financial Consequences

None

Strategic Priority and Outcome/Service Priorities

The report helps to meet the strategic priority "Opportunities for all – communities to be able to access the wide range of services in the city provided by the Council"

Contact Officers

John Jones, Head of Legal and Democratic Services	01603 212440
Jackie Rodger, Senior Committee Officer	01603 212033

Background Documents

None

Report

Introduction

1. The Constitution Working Party suggested at its meeting on 7 March 2008 that consideration should be given to the appointment of substitutes for appointed members of Committees of the Council.
2. Various schemes used by other Councils have been reviewed. These all have a system of nominating substitutes for appointed members of Committees and Sub-Committees provided notice is given to the Head of Legal and Democratic Services in advance of the relevant meeting.

Procedures

3. It is therefore recommended that Group Leaders may nominate all their members to be substitutes for appointed members of Committees, Joint Committees, Sub-Committees, Working Groups and Panels, except in the case of the:-
 - (a) Council's regulatory committees (Licensing, Planning Applications, Regulatory and Standards Committees and the Personnel Appeals Panel) where it is recommended that each political group nominates one member to be the trained substitute;
 - (b) Scrutiny Committee where members of the Executive are not permitted to be substitutes for members.
4. The scheme does not allow for substitutes to be appointed to the Executive.
5. The proposed amendment to Appendix 1 of the Council's Constitution is appended to this report.

Suggested amendments to Appendix 1 of the Constitution:-

22. Application to Committees and Sub-Committees

- 22.1 All of the Council Procedure Rules apply to meetings of full Council. With the exception of Rules 10 and 11, the rules do not apply to meetings of the Executive.
- 22.2 Only Rules 3, 5–8, 10, 11, 13.7 – 16.2, 16.3 – 20, 23 and 24 apply to meetings of committees, sub-committees and joint committees.

23. Questions to Committees and Sub-Committees

- 23.1 At the discretion of the Chair, a member of the Council may ask a Committee or Sub-Committee a question on any matter in relation to which that Committee or Sub-Committee has powers or duties.

24. Appointment of Substitute members of Committees and Sub-Committees

- 24.1 Group Leaders may nominate all their members to be substitutes for appointed members of Committees, Joint Committees, Sub-Committees, Working Groups and Panels, except in the case of the:-
- (a) Council's regulatory committees (Licensing, Planning Applications, Regulatory and Standards Committees and the Personnel Appeals Panel) where Group Leaders may nominate one member to be the trained substitute;
 - (b) Scrutiny Committee where all members except the Executive members are permitted to be substitutes.
- 24.2 Notice of substitution must be given by the appointed member or the relevant political assistant or Group Leader to the Head of Legal and Democratic Services indicating the name of the substitute, before the commencement of the particular meeting.
- 24.3 Cancellation of the intention to substitute will not be effective until notified by the appointed member or the relevant political assistant or Group Leader before the commencement of the meeting.
- 24.4 If, after advance notice has been given, the appointed member is present when the meeting begins, the substitution will not have effect for that meeting.
- 24.5 If the appointed member arrives when the meeting is in progress, the substitution will remain effective and the appointed member will not be

allowed to participate in the decision making. It is not possible to substitute for part of a meeting.

- 24.6 At the commencement of the meeting the Chair/committee officer will inform the Committee/Sub-Committee of substitution(s).