

Terms of Reference – Audit & Standards Committee

Report Author:	Clive Tobin, Monitoring Officer
Report Author Contact Details:	ctobin@melton.gov.uk
Chief Officer Responsible:	Dawn Garton Director for Corporate Services
Chief Officer Contact Details:	01664502444 dgarton@melton.gov.uk
Corporate Priority:	Ensuring the right conditions to support delivery
Relevant Ward Member(s):	All
Date of consultation with Ward Member(s):	N/A
Exempt Information:	No

1 Summary

This report summarises the current terms of reference for this Committee, the content of and the process by which those terms of reference may be changed.

2 Recommendations

That Committee:

- 2.1 **Considers its current terms of reference together with the CIPFA Audit Committees Position Statement 2022 and makes appropriate recommendations to Council in relation to any changes to its terms of reference.**

3 Reason for Recommendations

- 3.1.1 This Committee discharges a number of statutory functions on behalf of the Council. These functions are central to the Council's governance arrangements and assist in ensuring both the lawfulness of the Council's actions and sound financial management. Central to maintaining the efficacy of this Committee in performance of its functions is the

requirement to ensure that its own governance arrangements are both lawful and take proper account of all relevant guidance.

4 Background

Functions of Committee

4.1 The Committee currently undertakes various functions which can be separated into three broad categories as follows:

4.1.1 Audit functions,

4.1.2 Standards functions, and,

4.1.3 Miscellaneous functions.

Audit functions

4.2 The Accounts and Audit (England) Regulations 2015 are made under the Local Audit and Accountability Act 2014 and establish a framework of controls which must be followed by local authorities to ensure that proper governance and financial probity. Amongst other requirements, the regulations require the Council to maintain an effective internal audit to evaluate its risk management, control and governance processes taking into account public sector internal auditing standards and guidance.

4.3 The regulations also require the Director for Corporate Services as the Council's responsible financial officer to ensure that the Council observes proper financial control systems to record day to day transactions and a record of the Council's assets and liabilities, including for fraud detection and management of risk.

4.4 Crucially, the regulations also require the Council or one of its Committees to review the system of internal controls and approve the Annual Governance Statement

Standards functions

4.5 The Localism Act 2011 updated the previous standards regimes and imposes a duty for local authorities to promote and maintain high standards of conduct. As part of this duty local authorities must adopt a Code of Conduct and have in place arrangements under which allegations can be investigated and decisions on allegations can be made. The nature of those arrangements is not prescribed by the Act meaning that there is some flexibility to how these are discharged by each authority concerned. This Committee currently makes decisions on allegations which are investigated whilst other aspects of the standards process are discharged by the Monitoring Officer.

Miscellaneous functions

4.6 These include granting dispensations in relation to politically restricted posts and approval of the Council's RIPA policy.

Arrangements for discharge of functions

- 4.7 As members will be aware the functions of local authorities which operate a Leader and Cabinet model are split into executive and non-executive functions. In summary, other than a few specific matters where decisions are made jointly by them, the Cabinet must discharge executive functions and the Council or one of its committees must discharge non-executive functions. It is unlawful for the Cabinet to discharge non-executive functions or for Full Council or one of its committees to discharge executive functions.
- 4.8 Regulations made under the Local Government Act 2000 state that the Audit functions referred to at paragraphs 4.2 to 4.4 are non-executive functions and therefore may not be discharged by the Cabinet. The Localism Act 2011 states that the arrangements for dealing with standards allegations are not to be the function of the executive of an authority. This clarifies the clear separation between the functions of this committee and the Cabinet.

5 Main Considerations

- 5.1 Following publication of the CIPFA Statement (Appendix B) the Council must review the terms of reference and membership of this committee. As members will be aware CIPFA publishes various standards for accounting and audit which local authorities must follow. As such the views expressed in the statement carry considerable weight and are a relevant consideration when reviewing the terms of reference. This applies to both the functions undertaken by the committee and the membership of the committee. Members will observe that the CIPFA statement highlights the distinction between executive and non-executive functions and the requirement for Audit Committees to function independently of the executive (page 2).
- 5.2 Whilst there is no statutory restriction preventing a member of the executive from being a member of the Audit Committee the distinction highlighted by CIPFA is highly relevant to ensuring that proper governance arrangements are in place and that the committee can hold the executive to account. As members will also be aware, when making any decision, including who to appoint to its committees, a local authority must consider all relevant factors, disregard all irrelevant factors, and reach a decision which is reasonable in the circumstances.
- 5.3 Members will also be aware that only Full Council can change the terms of reference for a committee or change its membership.
- 5.4 Whilst the current terms of reference for the committee largely match those in the CIPFA statement, there are a number of areas in which improvements could be made:
- 5.4.1 Paragraphs 1.12 and 1.13 are effectively duplicated and therefore it is recommended that these are combined to read: 'To review and approve the Council's Code of Corporate Governance and approve the Annual Governance Statement'.

5.4.2 Paragraphs 1.14 and 1.15 are effectively duplicated and therefore it is recommended that these are combined to read: 'To consider the External Audit findings from their review of the Statement of Accounts and approve the Statement of Accounts'.

5.4.3 In light of the CIPFA statement it is recommended that the Council does not appoint members of the executive to the committee.

6 Options Considered

6.1 The Council must have regard to relevant guidance in deciding how to discharge its functions and to ignore the CIPFA Position Statement would be to ignore a relevant consideration and for that reason, no other options have been considered.

7 Consultation

7.1 None.

8 Next Steps – Implementation and Communication

8.1 Once Committee has considered the content of this report and appendices Full Council will decide whether to make any changes to the terms of reference of the Committee.

9 Financial Implications

9.1 There are no direct financial implications associated with this process.

Financial Implications reviewed by: Director for Corporate Services

10 Legal and Governance Implications

10.1 The legal implications are set out in the body of this report.

Legal Implications reviewed by: Clive Tobin, Assistant Director for Governance & Democracy (Monitoring Officer).

11 Equality and Safeguarding Implications

11.1 There are no direct implications arising.

12 Community Safety Implications

12.1 There are no direct implications arising.

13 Environmental and Climate Change Implications

13.1 There are no direct implications arising.

14 Other Implications (where significant)

14.1 There are no other implications arising.

15 Risk & Mitigation

- 15.1 The Council should ensure that its governance arrangements take account of all relevant guidance and ensure transparency in its decision making and audit functions. The proposals in this report will assist in achieving this.

16 Background Papers

None

17 Appendices

17.1 Appendix A – Current Terms of Reference for Audit & Standards Committee

17.2 Appendix B – CIPFA Audit Committees Position Statement 2022