

Report to Governance and Constitution Review Committee

27th May 2022

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| Subject: | Democratic Governance Review |
| Director: | Surjit Tour, Director of Law & Governance |
| Contact Officer: | Elaine Newsome, Service Manager, Democracy |

1 Recommendations

- 1.1 That a cross-party working group comprised from 5 members of the Governance and Constitution Review Committee be established to progress the democratic governance review, and that the Committee confirms the appointment of Members to the working group.
- 1.2 That in connection with 1.1 above, additional membership of the working group, external to the Committee, be approved.
- 1.3 That the Director of Law and Governance, in consultation with the Chair of the Governance and Constitution Review Committee, be authorised to appoint additional members to the working group, in line with the review themes.
- 1.4 That the proposed approach, programme and timeline for the Democratic Governance Review, as set out in the Appendix, be approved.







2 Reasons for Recommendations

- 2.1 The Committee has delegated authority from Council to review and make recommendations on proposed governance and constitutional related issues.



- 2.2 In order to progress the strands of the review, a cross party working group with extended membership is considered to be an effective mechanism as this will provide for a range of input from across all political groups and member roles.
- 2.3 Delegation of membership to the Chair of the Committee would expedite and provide flexibility in appointments to the working group.
- 2.4 The approach to the review is a matter for the Committee to consider and approve.

3 How does this deliver objectives of the Corporate Plan?

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|  | The Councils governance arrangements underpin all activities relating to the delivery of its corporate objectives |
|  | Best start in life for children and young people |
|  | People live well and age well |
|  | Strong resilient communities |
|  | Quality homes in thriving neighbourhoods |
|  | A strong and inclusive economy |
| | A connected and accessible Sandwell |

4 Context and Key Issues

- 4.1 In 2018/19, the Local Government Association (LGA) undertook a corporate peer review that included an analysis of the Council's governance infrastructure. A key recommendation arising from the review was the completion of a fundamental review of corporate governance arrangements along with political and wider member development.



The Council developed an associated action plan to address and move forward the key points identified in the review and commenced with a review of scrutiny arrangements, exploring best practice and emerging themes to enhance the scrutiny functions.

- 4.2 Initial strands of the review have taken place to date, including a series of best practice recommendations in relation to the Council's Scrutiny function; a comprehensive review and revision to the Councillor Code of Conduct, resulting in the adoption of the revised LGA model code; and improvements to digital democracy platforms, including a new committee management system.
- 4.3 Since early 2020, the Council has continued to review and revise its governance and decision-making arrangements in order to meet the challenges and demands arising from the covid-19 pandemic.
- 4.4 The external reviews undertaken by Grant Thornton, the LGA and Cipfa have made a number of recommendations that centre around the council's governance framework and arrangements. In response, the Council has combined resultant activity into a single action plan.
- 4.5 The governance review is the vehicle on which many of the recommendations will be addressed. The review itself is multi-faceted, with the overarching ambition to deliver an effective and efficient governance infrastructure, that is embedded across the organisation. To support the successful realisation of this ambition, the review will also incorporate a development programme for officers and elected members.
- 4.6 Whilst governance arrangements will continue to evolve to meet emerging need and new legislative provisions, there are a number of fundamental issues to be addressed corporately alongside an opportunity to review and implement change in advance of the end of the current Municipal Year, with longer term aims (including a review of the effectiveness of any changes and supporting the governance arrangements of other corporate initiatives) scheduled over a 2-year



timeframe. The review programme has been divided into phases with an indicative timescale for each strand. The initial 2 phases are set out below.

- 4.7 It is proposed that a cross-party member working group is established to lead on review activity with officer support drawn from colleagues across Democratic Services, Finance, Legal, HR and internal Audit with input from other services as needed.
- 4.8 A programme of wider elected member engagement in relation to review themes will support the development of recommendations to be considered by the Committee.

5 Implications

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| Resources: | Appropriate officer support from a variety of governance disciplines will support the review activity. |
| Legal and Governance: | The Councils governance arrangements should reflect the current legislative framework and offer efficient, effective and appropriately placed decision making. |
| Risk: | Risks to the Council arise where governance arrangements are not routinely reviewed and aligned with legislation and guidance. |
| Equality: | The Council’s governance arrangements should offer equality of access to all. |
| Health and Wellbeing: | A key theme of review activity relates to the Councils Health and Wellbeing board arrangements. |
| Social Value | None associated with this report. |

6 Appendices

Appendix 1 – Democratic Governance Review Approach and Timeline

7. Background Papers

LGA Peer Review, Grant Thornton Review, Cipfa Review, Council’s Single Improvement Plan



| Phase 1 May to October 2022 | | | | |
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| Governance Topic | Action/themes | What will the review strand look to achieve | Lead Committee/Board | Indicative timetable for decision by Council/Leader |
| Member Engagement Strategy | | To develop targeted member engagement approach to gauge as broad a view on any proposed governance changes | Governance Review Working Group (June 2022) | N/A |
| Executive Decision Making | Review key decision financial threshold | The review will benchmark against other Metropolitan and neighbouring Councils to understand current financial thresholds and how they support strategic ambitions. Any decision to revise thresholds will be a matter for Council and will impact on other review activity including Contract Procedure Rules, Financial Regulations, the Scheme of Delegation and | Governance & Constitution Review Committee 5 th July | Council 26 th July 2022 |



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| | Consider re-introduction of individual cabinet member decision making and associated thresholds | individual Cabinet Member decisions. This element of the review will aim to re-evaluate the decision-making powers delegated by the Leader to individual cabinet members; understanding the associated impact on collective cabinet decisions and determining the process, including checks and balances to ensure robust governance arrangements are in place, including the role of scrutiny | Leader | Following decision by Council July 2022 |
| Constitution Review: Contract Procedure Rules (CPR) | A holistic review of contract procedure rule | This strand of the review will be influenced by any decision on the key decision threshold. The key aims of the review are to ensure that the council's contract procedure rules are robust, compliant with relevant legislation (following the UK departure | Governance & Constitution Review Committee 5 th July | Council 26 th July 2022 |



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| | | <p>from the EU), offer sufficient checks and balances to provide assurances to members in relation to procurement decision making processes without being prohibitively bureaucratic.</p> <p>Review activity will be supported by officer focus groups on the procurement processes that underpin CPRs with a view to ensuring that processes are effectively supportive</p> | | |
| <p>Constitution Review Financial Regulations including land and asset management</p> | <p>A holistic review of financial regulations and asset management provisions</p> | <p>This strand of the review will be influenced by any decision on the key decision threshold.</p> <p>The key aims of the review are to ensure that the council's financial regulations are robust, compliant with relevant legislation and guidance (Including CIPFA</p> | <p>Governance and Constitution Review Committee 5th July</p> | <p>Council 26th July 2022</p> |



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| | | <p>guidance), offer sufficient checks and balances to provide assurances to members in relation to the Council's strategic and operational financial management</p> <p>Review activity will be supported by officer focus groups on the processes that underpin Financial Regulations with a view to ensuring that processes are effectively supportive</p> | | |
| Constitution Review: Council Procedure Rules | To review and refresh constitutional provisions relating to the operation of Council meetings | The Council Procedure Rules have not been reviewed for a number of years. This strand of the governance review will analyse the effectiveness of current practices and look to develop, where appropriate, revised procedures and practices that provide clarity | Governance & Constitution Review Committee 5 th July 2022 | Council 26 th July 2022 |



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| | | <p>and broader engagement in the Councils flagship meeting.</p> <p>Exploring initially:</p> <ul style="list-style-type: none"> • Lead Member reporting mechanisms • Committee minutes received for information • Rules of Debate • Re-ordering of sections of the CPRs for clarity | | |
| Constitution Review: Scheme of Delegation | A comprehensive review of the Scheme of Delegation to Officers | <p>This strand will benchmark against good practice schemes and other local councils with similar strategic ambitions. This will look also at different model schemes, with a view to ensuring that Sandwell's scheme of delegation is accessible and easier for officers to utilise</p> <p>Alongside this there will be an analysis of current legislative</p> | Governance & Constitution Review Committee 13 th October | Council 25 th October 2022 |



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| | | provisions, ensuring that any superseded, new or repealed legislation is accounted for, again, supported by officer focus groups. | | |
| Scrutiny Review | <p>Embed scrutiny review best practice recommendations</p> <p>Consider corporate appetite to revisit the scrutiny structure</p> | <p>During early 2022, the Chairs of the Scrutiny Boards paused the final elements of the scrutiny review to allow for any changes in membership following the election.</p> <p>A number of best practice recommendations were developed as part of the 2019/2020 review, considering issues such as the scrutiny toolkit, alternative mechanisms for delivering work programmes, the role and remit of scrutiny chairs. Most were implemented during 2021 and are</p> | <p>Scrutiny Board Chairs' recommendations on structure to Governance and Constitution Review Committee 13th October 2022</p> <p>Any revisions to terms of reference and structures can be developed throughout the remainder of the calendar year</p> | <p>Council 25th October 2022 or 13th December 2022</p> |



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| | | <p>demonstrating effectiveness and improvements across the function.</p> <p>The remaining aspects for this strand are to consider the future structure of the scrutiny function, including the suggested inclusion of a dedicated board to examine the performance of commissioned and externally contract service providers</p> | | |
| Review of Elected Member learning and development | <p>Analysis of effectiveness of phases 1&2 MDP</p> <p>Development of Member offer for 2022</p> | <p>This strand of the review aims to build on the success of the initial phases of the Member Development Programme and facilitate separate programmes that are tailored to meet the needs of:</p> <ul style="list-style-type: none"> • Newly elected members • a core programme for all members (including essential elements); | Ethical Standards and Member Development Committee (via Member Development working Group) 14 th June 2022 | N/A |



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| | | <ul style="list-style-type: none"> • bespoke programmes for members with specific responsibilities (cabinet, scrutiny, committee chairs, Mayor elect) • Members aspiring to take on new roles in the future <p>Feed Member Development needs (identified in PDPs) into the mid-year review of the member development programme</p> | 27 th September 2022 (with a further review in preparation for the new municipal year in February 2023, reporting to Committee on 7 th March 2023 | |
| Officer development & governance engagement | To design and deliver officer learning and development on corporate governance | To support the need for shared corporate ownership of governance, this strand of the review will explore, with colleagues across the | Officer working group August to November 2022 | N/A |



| | | <p>organisation, to identify any gaps in understanding and build an effective programme of tailored learning and development for officers.</p> <p>*This will be dependent upon the timetable for constitutional changes</p> | | |
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| Phase 2 November 22 – May 23 | | | | |
| Governance Topic | Action/themes | What will the review strand look to achieve | Lead Committee/Board | Timeline for decision by Council/Leader |
| Constitution Review: General Provisions | Alignment of the remainder of the constitution | Following any earlier changes to constitutional provisions, this strand of the review will look to align the remainder of the constitution to those changes. This is primarily administrative in nature however; some analysis will be required, and a decision taken on the current | Governance and Constitution Review Committee November 2022 | 13 th December 2022 |



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| | | discretionary elements of the constitution | | |
| Health and Wellbeing Board | Review existing arrangements to ensure legislative compliance | <p>This strand of the review will aim to clarify the purpose and role of the H&WBB</p> <p>A collaborative officer review to address anomalies and develop future working mechanism. Any required constitutional changes will be a matter for Council to determine</p> <p>Feed Member Development needs into the review of the member development programme (set out below)</p> | <p>Governance & Constitution Review Committee November 2022</p> <p>Ethical Standards and Member Development Committee (via working group)</p> | 13 th December 2022 |
| Modern.gov development | Roll-out full functionality of modern.gov supported by Officer Development Programme | This element of the review aims to develop the committee management system following any constitutional changes and enable officers and elected | Democratic Services | May 2023 |



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| | | members to utilise full system functionality. Elements of the wider corporate governance officer development programme will address any training needs | | |
| Democratic engagement | Public engagement platforms | This strand of the review will explore opportunities for wider democratic engagement including digital democratic presence and enhancing public engagement and participation in democratic processes | Governance & Constitution Review Committee (this will be an element of the phase that continues into year 2) | |
| Corporate Governance | Review of Annual Governance Statement and Code of Corporate Governance mechanisms | This strand of the review will explore the effectiveness of the current mechanisms for the development of the Annual Governance Review | Governance Review Officer Group by December 2022 | |
| Committee structure | Review the effectiveness of existing arrangements | This strand of the review will examine the current decision-making structure and explore any appetite for change, considering the appropriate | Governance & Constitution Review Committee January 2023 | Council 31 st January 2023 |



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| | | placement of decisions in line with legislative provisions | | |
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