



- **Monitoring the question of the provisions relating to call in and urgency set out in Part 3 of the Constitution and submitting an annual report to the City Council if necessary.**

**(b) to include responsibility for member training and development.**

**(4) That all the functions of the General Purposes Committee be re-allocated to the Governance and Audit, Development Control and Licensing Committees in accordance with the details set out in Appendix C.**

**(5) That arrangements be made for members of the Governance and Audit Committee when appointed to receive appropriate training in their role and responsibilities.**

## **Background**

2. Although not a legal requirement in local government, Level 4 of the draft Comprehensive Performance Assessment (CPA) key line of enquiry assessment on local authority internal control (item 4.2) requires an 'audit committee' to be in place. This committee would be independent of both the Executive and the Council's scrutiny (policy and review) functions and would comprise members appointed under the political proportionality rules.
3. Although referred to as an 'audit committee', the terms of reference suggested by CIPFA would be concerned with corporate governance in its entirety, encompassing audit issues. At the present time responsibility for governance and audit matters, dependent upon the issue involved, falls to be considered by either the General Purposes Committee, Standards Committee or Performance Panel.
4. Fifty percent of local authorities currently have audit committees<sup>1</sup> and the number is likely to grow with the challenge of the next CPA.
5. CIPFA have published guidance on audit committees to cover the following:
  - The purpose of an audit committee
  - Its core functions
  - The features that would make it effective
  - Its structure and administration
  - A suggested terms of reference
  - Self-assessment checklist to measure the effectiveness of an audit committee.

These points are summarised below.

---

<sup>1</sup> Information from CIPFA

## **Purpose**

6. To enhance public trust and confidence in the financial governance of the authority by providing independent assurance to members and the public and providing challenge across the council.

## **Core Functions**

7. The core functions suggested for a committee are -
  - To consider the effectiveness of the risk management arrangements, control environment and anti fraud and anti corruption arrangements
  - Seek assurance that actions are being taken on risk related issues identified by auditors and inspectors
  - Review the statement on internal control for accuracy and monitor follow up actions
  - Approve (but not direct) internal audit's strategy, plan and monitor performance
  - Review summary internal audit reports and main issues arising, seeking assurance that action is being taken as appropriate
  - Receive the annual report of the head of internal audit
  - Consider the reports of external audit and inspection agencies
  - Ensure effective relationships between external and internal audit and other relevant agencies and inspection bodies
  - Ensure that the value of the audit process is actively promoted
  - Review the financial statements, external auditors opinion and reports to members
  - Monitor management action in response to the issues raised by external audit

## **Features**

8. CIPFA suggests that effective audit committees should have the following characteristics:
  - A strong chair – skilled and interested in governance
  - Members with unbiased attitudes
  - The ability to challenge the executive – the leader/chief executive, when required
  - A balanced membership that is objective, independent of mind and knowledgeable
  - Reporting directly to the full council, therefore independent from executive and scrutiny functions
  - Free and open discussions at meetings without undue political influences being displayed
  - Understanding of financial matters by one or more members
  - Separate meetings with internal and external auditors

- Regular attendance of the Chief Finance Officer, Head of Internal Audit, appointed external auditor.
  - Attendance as required by the monitoring officer or relevant head of service
  - Meet at least four times a year, with a clear policy on which items are to be considered either in private or public
  - Clear terms of reference
  - Members to have skills and experience or be trained on:
    - Governance,
    - Risk management,
    - Internal control,
    - Accounting statements and issues,
    - Regulation and compliance,
    - Role of the committee,
    - Role of internal and external audit
  - Ideally consist of three to five members with no other responsibilities. In practice for Portsmouth this would effectively mean 'no other major responsibilities'.
9. On the general question of committee membership, CIPFA has suggested that it makes sense for the chair of the committee to be independent of all other functions. CIPFA also recognises that identifying sufficient members with appropriate skill levels and experience can be difficult, especially as many such members could already be serving on other committees and thus may not be eligible for membership.

### **Benefits of an Audit Committee**

10. CIPFA suggests that the benefits of an audit committee would -
- Raise awareness of the need for internal control and the implementation of audit recommendations
  - Increase public confidence in the objectivity and fairness of financial and other reporting
  - Reinforce the importance and independence of internal and external audit and other similar review process (including the Statement on Internal Control)

### **Why an audit committee is needed**

11. CIPFA's view is that local authorities need to establish a committee so that there can be -
- Clarity of roles
  - Corporate focus on governance issues arising from risk management, internal control and reporting
  - The focus on governance issues only, ensure that these are not diluted by other functions

- Independence from the Executive and from other functions, not mixing Scrutiny, Executive, Cabinet functions
- Reporting direct to full Council not Executive therefore enhancing independence
- Provision of a cohesive and consistent response to audit reviews and governance arrangements
- Perceptions - enhances accountability

### **Current Position within the City Council**

12. At the present time responsibility for governance and audit matters, dependent upon the issue involved, falls to be considered by either the General Purposes Committee, Standards Committee or Performance Panel.

#### ***(a) Policy and Review (Performance) Panel***

13. Internal Audit report twice yearly to the Policy and Review (Performance) Panel. The functions (or terms of reference) for this panel are defined in Article 6 of the Council Constitution and include:

- Reviewing and monitoring Council policies, plans and programmes including revenue and capital estimates; and
- Considering and advising the Council on reports issued in respect of Council services by statutory agencies.

The Panel also has amongst its more detailed terms of reference, the function of considering and advising the City Council on reports that may be issued in respect of or by (amongst others): Audit, District Audit, Audit Commission and other inspectorates<sup>2</sup>.

14. There is no specific reference to risk management or other governance issues, which are dealt with separately by other panels/ committees. The annual Statement on Internal Control (SIC) is also considered by the Performance Panel. However, there is no specific mention in their terms of reference on the control framework or the SIC, [which are matters identified/introduced since the new constitution was adopted].
15. The Performance Panel can make recommendations to the Executive or to the full Council as appropriate and are required to report annually on their activity to the Council.
16. There are 9 Members together with standing deputies serving on the Performance Panel. The current members also serve on other panels and committees.
17. Internal Audit can report directly to members of the Performance Panel on matters of concern. The Panel approves the Internal Audit

---

<sup>2</sup> paragraph 6.6 item 2 of Article 6 of the Constitution

Strategy, Plan, Charter and Terms of Reference, receives the Auditor's Annual report and monitors performance as well as requesting information on material matters that have not been resolved. The Panel does not consider individual summary audit reports.

**(b) General Purposes Committee**

18. The General Purposes Committee is a regulatory committee to which has been allocated a range of functions which have to be discharged by a cross party committee of councillors. This committee's functions include -

- Duty to approve the local authority's statement of accounts, income, and expenditure and balance sheet;
- Power to make standing orders;
- Functions relating to electoral registration and elections;
- Registration of common land, town and village greens;
- Various functions relating to public rights of way;
- Power to approve premises for the solemnisation of marriages;
- School Transport Appeals

Several of the functions have in turn been delegated to officers, who exercise those functions.

**(c) Standards Committee**

19. The Standards Committee is responsible for overseeing, maintaining and strengthening high standards of conduct in public office. The Committee is a regulatory committee which has a range of functions to be discharged by a cross party committee of councillors, including independent members. Apart from those matters relating directly to members and the code of conduct and related matters, the committee's functions include -

- Overview of complaints handling and Ombudsman investigations;
- Overview of the City Council's "whistle blowing" policy;
- Oversight of the Constitution;
- Power to make or amend standing orders relating to contracts, and financial standing orders or regulations in relation to the conduct of council business;
- Monitoring the question of the provisions relating to call in and urgency set out in Part 3 of the Constitution and submitting an annual report to the City Council if necessary.

20. The functions mentioned in paragraph 19 were allocated to the Committee when the Council adopted the new Constitution, which came into operation in May 2002. This was because at the time it was considered that the Standards Committee would be best placed to exercise these functions.

**(d) Member Training and Development**

21. The Council's Employment Committee has taken the initiative to progress and promote elements of training and development for councillors. This has included 'signing up' to the South East Charter for Elected Member Development, which has been developed by the South East Employers Organisation in consultation with the IDeA (the Improvement and Development Agency).
22. Although the Employment Committee became involved in this initiative, which arose out of a need initially to provide specific training for councillors on various employment related matters, it should more properly sit within the remit of the Standards Committee. The Standards Committee has a responsibility for member training in respect of code of conduct matters. For clarity, it would be appropriate also for that Committee to be responsible for and be the focus for co-ordinating all member training and development. This would include receiving regular reports on progress and continuing to develop the South East Charter.

**Checklist of current audit position against the CIPFA checklist**

23. A summary of the CIPFA recommended best practice compared to the City Council's actual practices and gaps is attached as Appendix A.
24. Some significant gaps in governance arrangements and best practice have been identified and these include:
  - Central oversight of all corporate governance arrangements including:
    - Contract procedure rules
    - Financial Regulations
    - Codes of conduct and behaviour
    - Whistle blowing
    - Anti fraud arrangements
    - Risk Management
    - Internal Control Statements
    - Council's complaints process
  - A smaller more focused membership of the committee responsible for governance issues should be appointed
  - Members of the relevant committee should, so far as possible, be independent from other key committees, executive and scrutiny functions
  - Members of the relevant committee should have a direct reporting line to the full Council
  - Members of the relevant committee should have the required skills and training

- Members of the relevant committee should have private meetings with Internal and External Audit

## **The Way Forward**

25. Although legislation does not require an authority to establish an audit committee, each council is required 'to ensure that its financial management is adequate and effective and that it has a sound system of internal control which facilitates the effective exercise of its functions'.<sup>3</sup> In addition, Section 151 of the Local Government Act 1972 requires the council to 'make arrangements for the proper administration of its financial affairs.'

26. A number of financial and governance matters have to be discharged by a committee (or committees) comprising members subject to the political proportionality rules. These matters are specifically excluded under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) from being discharged by the Executive. The functions include -

- Approving the authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments;
- Power to make standing orders;
- Electoral registration and elections;

In addition, policy and review panels have to comprise membership in political proportionality, and the Performance Panel, as mentioned in paragraphs 13-17 above has been involved in considering and advising in respect of reports from both Internal and External Audit.

27. Bearing in mind the thrust of the advice from CIPFA the options available to the Council would be to -

- (a) Create a new regulatory committee to deal solely with 'audit' matters;
- (b) Allocate to an existing regulatory committee the 'audit' functions; or
- (c) Create a new regulatory committee to deal with both governance and audit matters, and transfer to it some existing functions from other committees and panels.

28. Pursuing option (a) could, in my view, lead to confusion as to where ultimate responsibility for audit matters should rest, bearing in mind the functions currently exercised by other committees and panels. It would also not address directly the question of governance, which to an extent is closely linked with audit matters.

---

<sup>3</sup> Accounts and Audit Regulations 2003



29. Pursuing option (b), say by ‘grafting on’ the audit functions to the present general purposes committee, might also not achieve the degree of transparency or the recognition of the role that is being sought by having the committee’s work diluted by other responsibilities.
30. Option (c) could however achieve what is being recommended by CIPFA and at the same time allow the opportunity to realign certain of the functions currently discharged by some committees and panels. This would allow there to be clear focus upon the key governance and audit matters that have been highlighted.
31. I have considered carefully the opportunities to strengthen the Council’s governance arrangements and to make clearer the respective responsibilities of those committees and panels that currently have a role in governance and audit matters.
32. I am therefore proposing the following arrangements, the details of which are amplified in the appropriate appendices -
- (a) That a Governance and Audit Committee, comprising 6 non-executive members together with standing deputies, be created with the functions and responsibilities set out in Appendix B;
  - (b) That the functions of the Standards Committee be revised to exclude the following matters (which will now become the responsibility of the Governance and Audit Committee) -
    - Overview of complaints handling and Ombudsman investigations;
    - Overview of the City Council’s “whistle blowing” policy;
    - Oversight of the Constitution;
    - Power to make recommendations or amendments to standing orders relating to contracts, and financial standing orders or regulations in relation to the conduct of council business;
    - Monitoring the question of the provisions relating to call in and urgency set out in Part 3 of the Constitution and submitting an annual report to the City Council if necessary.
  - (c) That the Standards Committee be given responsibility for member training and development.
  - (d) That all the functions of the General Purposes Committee be re-allocated to the Governance and Audit, Development Control and Licensing Committees in accordance with the details set out in Appendix C
  - (d) That no changes be made to the functions of the Policy and Review (Performance) Panel, who will continue to receive reports appropriate to their functions and responsibilities,

including those issued by statutory agencies such as the Audit Commission.

## **Conclusion**

33. In order to strengthen the governance arrangements the Council is asked to review and agree the committee arrangements to close the gap with best practice.

.....  
City Solicitor

## **Background List of documents –**

*Section 100D of the Local Government Act 1972*

Audit Committees Practical Guidance for Local Authorities – CIPFA 2005

CPA Draft Key lines of Enquiry - Internal Control item 4.2

Statement on Internal Control process report from Roger Ching April 19 2006

Portsmouth City Constitution

JH/me  
6 June 2006  
(updated 14 June;  
further updated 29 June;  
6 September)

## CHECKLIST OF CIPFA RECOMMENDED BEST PRACTICE RE AUDIT COMMITTEES COMPARED TO PCC ACTUAL

CIPFA Recommendation	Policy and Review (performance) Panel	Other	Comments
<b>Terms of Reference</b>			
Committees terms of reference approved by whole Council	Yes		
Terms of Reference follow CIPFA Model	No		see detail below
<b>Internal Audit</b>			
The Committee considers the head of internal audit's annual report and opinion, a summary of audit activity and the level of assurance it can give over the council's corporate governance arrangements	Yes		
Approves the Audit Strategy	Yes		
Considers summaries of specific internal audit reports as requested	Partly		Requests an explanation on some control weakness areas rather than seeing the report summary
Regularly reviews the activity and performance of internal audit services	Yes		Twice yearly
Considers reports from internal audit on agreed recommendations not implemented within a reasonable timescale and if they have not been, seeking explanations from the relevant head of service	Yes		
Commission work from internal audit in accordance with the agreed audit strategy	No		Work is only commissioned from audit by the s151 officer, CX, Audit Manager or as part of the Audit Plan
<b>External Audit</b>			
Considers the external auditors annual letter and relevant reports	Yes		

11

CIPFA Recommendation	Policy and Review (performance) Panel	Other	Comments
Considers specific reports as required with the external auditor	Partly		Reports in respect of performance issues
To comment on the scope and depth of external audit work and ensure it gives value for money	No		
Liaise with the Audit Commission over the appointment of the Council's external auditor	No		
Commission work from external audit	No		
<b>Regulatory Framework</b>			
Maintain an overview of the Council's constitution in respect of: - contract procedure rules, - financial regulations, - codes of conduct and behaviour, - whistleblowing, - anti fraud arrangements - risk management - internal control statements - Council's complaints process	No		Standards Committee undertakes a number of these functions
Review any issue referred to it by the Chief Executive, a Director or any Council body	No		Issues are referred to specific Scrutiny Panels/ Standards Committee or the relevant Executive
Monitor the effective development and operation of risk management and corporate governance in the Council and agreeing the necessary actions to ensure compliance with best practice	No		
Consider the Council's compliance with its own and other published standards and controls	No		Certain matters are reported to Members, eg Social Services, Standards

CIPFA Recommendation	Policy and Review (performance) Panel	Other	Comments
<b>Accounts</b>			
Review annual statement of accounts; specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council	No		General Purposes Committee undertake this function
Report on issues arising from the audit of the accounts from the external auditors report to those charged with governance	No		General Purposes Committee would undertake this function if the situation arose
<b>Other Inspection Agencies</b>			
Consider reports from other inspection agencies and ensure that officers are acting on and monitoring action taken to implement recommendations	Yes		
<b>Membership</b>			
Membership of 3-5	No		membership of 9
Chair free of executive and scrutiny functions	No		
Members sufficiently independent of the other key committees of the Council	Yes		No members of the Executive serve on policy and review panels
Members skills and experience assessed and training has been given on identified gaps	No		
is accountable to and reports directly to the Full Council	Partly		Can report to the Executive via the s151 officer or can report to the Full Council. Required to submit an annual report of activity to the Full Council
Access to other committees as required	Yes		
<b>Meetings</b>			
Regular meetings (at least 4 a year) are held	Yes		

CIPFA Recommendation	Policy and Review (performance) Panel	Other	Comments
Separate private meetings are held with the external auditor and internal auditor	No		
Meetings are free and open without political influence	Yes		Performance Panel is politically proportionate
Agenda papers circulated in advance of meetings	Yes		
appropriate officers attend meetings	Yes		
<b>Training</b>			
Induction training is provided to Members	Partly		not specific to the functions of this Panel
More advanced training is given as required	No		
<b>Administration</b>			
The Authority's s151 officer or deputy attends every meeting	No		Only attends on relevant matters
Key officers are available to support the Committee	Yes		

LW Graham

April 2006

Taken from "Audit Committees- Practical Guidance for Local Authorities" published by CIPFA 2005

**GOVERNANCE AND AUDIT COMMITTEE PROPOSED TERMS OF REFERENCE**

**Audit Activity**

1. To consider, approve or otherwise deal with -
  - The head of internal audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the council's corporate governance arrangements.
  - Summaries of specific internal audit reports as requested.
  - Reports dealing with the management and performance of the providers of internal audit services.
  - Reports from internal audit on agreed recommendations not implemented within a reasonable timescale.
  - The external auditor's annual letter, relevant reports, and the reports to those charged with governance.
  - Specific reports as agreed with the external auditor.
2. To receive and comment upon the audit charter together with its terms of reference and audit strategy.
3. To comment on the scope and depth of external audit work and to ensure it gives value for money.
4. To liaise with the Audit Commission over the appointment of the council's external auditor.
5. To commission work from internal audit in accordance with the agreed audit strategy, and external audit.

**Regulatory Framework**

6. To maintain an overview of the council's constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour, and to make such recommendations to the Council as may be necessary.
7. To review any issue referred to it by the chief executive or a strategic director, or any council body.

8. To monitor and take decisions in respect of the effective development and operation of risk management and corporate governance in the council.
9. To monitor and take decisions in respect of the council policies on 'Raising Concerns at Work' and the anti-fraud and anti-corruption strategy and the council's complaints process.
10. To oversee and take decisions in respect of the authority's Statement on Internal Control and to recommend its adoption.
11. To consider and take decisions in respect of the council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
12. To consider the council's compliance with its own and other published standards and controls, including the Statement of Internal Control.

### **Accounts**

13. To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
14. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### **[Functions transferred from the Standards Committee]**

- Overview of complaints handling and Ombudsman investigations (see para 9 above);
- Overview of the City Council's "whistle blowing" policy (see para 9 above);
- Oversight of the Constitution (see para 6 above);
- Power to make recommendations or amendments of standing orders relating to contracts, and financial standing orders or regulations in relation to the conduct of council business (see para 6 above);
- Monitoring the question of the provisions relating to call in and urgency set out in Part 3 of the Constitution and submitting an annual report to the City Council if necessary.

### **Residual Regulatory Appellate Functions**

- Determining any appeal against any decision by or on behalf of the authority if that function has not been specifically delegated to another regulatory committee;
- Functions relating to school transport appeals



## APPENDIX C

Functions	Transfer to
<p><u>The Local Choice Functions</u> set out in paragraph 1.3 above, including the function of determining any appeal against any decision by or on behalf of the authority if that function has not been specifically delegated to another regulatory committee.</p> <p>Functions relating to the following matters as set out in Schedule 1 to the Functions Regulations -</p> <p><b><u>PART B</u></b></p> <ul style="list-style-type: none"> <li>• Power to approve premises for the solemnisation of marriages</li> <li>• Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to - <ul style="list-style-type: none"> <li>(a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 or</li> <li>(b) an order under section 147 of the Inclosure Act.</li> </ul> </li> <li>• Power to register variation of rights of common.</li> </ul> <p><b><u>PART C</u></b></p> <p>Health and safety at work functions to the extent that those functions are discharged otherwise than in the Authority's capacity as an employer.</p> <p><b><u>PART D</u></b></p> <p>Functions relating to electoral registration and elections.</p> <p><b><u>PART I</u></b></p> <p>The following miscellaneous functions -</p> <ul style="list-style-type: none"> <li>• Power to make standing orders.</li> </ul>	<p>Governance and Audit</p> <p>Licensing Committee</p> <p>Development Control</p> <p>Development Control</p> <p>Governance and Audit</p> <p>Governance and Audit</p> <p>Governance and Audit</p>

Functions	Transfer to
<ul style="list-style-type: none"> <li>• Duty to approve the authority's statement of accounts, income, and expenditure and balance sheet or record of receipts and payments (as the case may be).</li> <li>• Functions relating to sea fisheries</li> <li>• Power to make payments or provide other benefits in cases of maladministration etc</li> </ul> <p>Functions relating to public rights of way as set out in the schedule to the Functions and Responsibilities (Amendment) Regulations 2001, which are set out below for ease of reference –</p> <ol style="list-style-type: none"> <li>1. Power to create footpath or bridleway by agreement.</li> <li>2. Power to create footpaths and bridleways.</li> <li>3. Duty to keep register of information with respect to maps, statements and declarations.</li> <li>4. Power to stop up footpaths and bridleways.</li> <li>5. Power to determine application for a public path extinguishment order.</li> <li>6. Power to make a rail crossing extinguishment order.</li> <li>7. Power to make a special extinguishment order.</li> <li>8. Power to divert footpaths and bridleways.</li> <li>9. Power to make a public path diversion order.</li> <li>10. Power to make a rail crossing diversion order.</li> <li>11. Power to make a special diversion order.</li> <li>12. Power to require applicant for an order to enter into an agreement.</li> <li>13. Power to make an SSSI diversion order.</li> <li>14. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.</li> </ol>	<p>Governance and Audit</p> <p>Governance and Audit</p> <p>Governance and Audit</p> <p>Development Control</p>

Functions	Transfer to
<p>15. Power to decline to determine certain applications under section 121C of the Highways Act 1980.</p> <p>16. Duty to assert and protect the rights of the public to use and enjoyment of highways.</p> <p>17. Duty to serve notice of proposed action in relation to an obstruction on the highway.</p> <p>18. Power to apply for variation order under section 130B of the Highways Act 1980.</p> <p>19. Power to authorise temporary disturbance of surface of footpath or bridleway.</p> <p>20. Power temporarily to divert footpath or bridleway.</p> <p>21. Functions relating to the making good of damage and the removal of obstructions.</p> <p>22. Powers relating to the removal of things so deposited on highways as to be a nuisance.</p> <p>23. Power to extinguish certain public rights of way.</p> <p>24. Duty to keep Wildlife and Countryside Act 1981 definitive map and statement under review.</p> <p>25. Power to include modifications in other orders, under section 53A of the Wildlife and Countryside Act 1981.</p> <p>26. Duty to keep register of prescribed information with respect to applications under section 53 (5) of the Wildlife and Countryside Act 1981.</p> <p>27. Duty to reclassify roads used as public paths.</p> <p>28. Power to prepare map and statement by way of consolidation of definitive map and statement.</p> <p>29. Power to designate footpath as cycletrack.</p> <p>30. Power to extinguish public right of way over land acquired for clearance.</p> <p>31. Power to authorise stopping up or diversion of footpath or bridleway.</p>	

