

SLOUGH BOROUGH COUNCIL

REPORT TO: Council

DATE: 27th January 2022

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WARD(S): All

PART I **FOR DECISION**

REVIEW OF THE COUNCIL'S CONSTITUTION

1. **Purpose of Report**

To seek adoption of a new Article 9 (to introduce new Terms of Reference for the Audit and Corporate Governance Committee); the creation of a new Standards Committee; and the adoption of a new Article 9A (Standards Committee Terms of Reference).

2. **Recommendations**

Council is recommended:

- (a) To adopt a new Article 9 in the form attached at Appendix A
- (b) To adopt Article 9A in the form attached at Appendix B
- (c) To establish a Standards Committee with immediate effect

3. **Commissioners' Comments**

This report is commended to Council as a step on the way to complying with the Directions. The Lead Commissioner has commented that he is pleased the Council is taking this step towards recovery and he strongly endorses the Monitoring Officer's comments at paragraph 7 below.

4. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

4a. **Slough Wellbeing Strategy Priorities**

Good governance arrangements will support all of the Slough Wellbeing Strategy Priorities and the JSNA.

4b. **Five Year Plan Outcomes**

Strengthening the Council's governance will support delivery of all five priority outcomes of the Five Year Plan.

- Outcome 1: Slough children will grow up to be happy, healthy and successful
- Outcome 2: Our people will be healthier and manage their own care needs
- Outcome 3: Slough will be an attractive place where people choose to live, work and stay
- Outcome 4: Our residents will live in good quality homes
- Outcome 5: Slough will attract, retain and grow businesses and investment to provide opportunities for our residents

5. **Other Implications**

(a) Financial

There are no direct financial implications of the proposed action, although the revised Terms of reference will support the council's financial control mechanisms and help ensure it meets its best value duty.

(b) Risk Management

Recommendation from section 2 above	Risks/Threats/ Opportunities	Current Controls	Using the Risk Management Matrix Score the risk	Future Controls
To adopt a new Article 9 in the form attached at Appendix A To adopt Article 9A in the form attached at Appendix B To establish a Standards Committee with immediate effect	Political, Legal & Regulatory risks associated with maintaining the status quo	Existing Article 9	Likelihood – Very Low – 2 Impact – Negligible – 2 Risk Score - 4	Enhanced and strengthened Terms of Reference.

(c) Human Rights Act and Other Legal Implications

There are no Human Rights Act implications arising from this report.

Under Section 37 of the Local Government Act 2000, the Council is required to prepare and keep up to date a document, referred to as the Constitution, which contains as a minimum:

- (i) The Council's Standing Orders
- (ii) The Council's Code of Conduct for Members; and
- (iii) Such other information as the Secretary of State directs – under the Local Government Act 2000 (Constitutions)(England) Direction 2000 this information includes the membership, terms of reference and functions of the Council's Committees and Sub-Committees, and any rules governing the conduct and proceedings of those Committees and Sub-Committees.

Subject to those provisions, it is for the Council to decide what information its Constitution should contain. SBC's constitution contains a large number of rules and procedures and is broadly split up in the following way:

1. The Articles
2. Responsibility for functions
3. Procedure rules
4. Ethical framework
5. Members' allowances

This phase of the review focuses on Article 9 at Part 2 of the Constitution.

(d) Equalities Impact Assessment

There is no identified need for an EIA at this stage.

6. **Supporting Information**

6.1 The LGA governance review published in June 2020 recommended among other things that the Audit and Corporate Governance Committee Terms of Reference should be reviewed.

6.2 The DLUHC (formerly MHCLG) Governance Review published on 25th October 2021 recommended, as a matter of priority, a review of the Terms of Reference of the Audit and Corporate Governance Committee as outlined in the LGA governance review in 2020.

6.3 The Secretary of State's "minded to" letter dated 25th October 2021 contains Proposed Directions to the Authority, setting out actions "*which the Authority must undertake in order to effect the changes which are needed ... to include ... a revised term of reference for the Audit and Corporate Governance Committee...*".

6.4 On 1st December 2021, the Secretary of State made Directions under sections 15 (5) and 15 (6) of the Local Government Act 1999 and also appointed a Lead Commissioner and a Finance Commissioner for the purposes of the Directions. Direction 3 (b) includes the requirement for "a revised term of reference for the Audit and Corporate Governance Committee" and at a meeting of the Committee on 9th December 2021 the Lead Commissioner recommended to Members that they should adopt the CIPFA model terms of reference. At the same meeting the Lead Commissioner also recommended that Council should establish a Standards Committee for the purpose of upholding ethical standards and to undertake the work of the existing Determination Sub-committee.

6.5 The Revised ToR is an exact duplicate of the CIPFA model terms of reference. This includes the requirement for the Committee to produce an annual report to Full Council, incorporating a statement of its effectiveness (see paragraphs 36 and

37 of the Revised ToR) ; the right to report to Cabinet if it is considered that an issue is of such concern that Executive action is required (see paragraph 35 of the Revised ToR) ; and the right for the Head of Internal Audit and the External Auditor to meet with the Committee in private without officers if required (See paragraphs 25 and 32 of the Revised ToR).

6.6 The Proposed ToR incorporates both the Standards and Ethical Framework section of the existing Terms of Reference for the Audit and Corporate Governance Committee and the Terms of Reference for the Determination Subcommittee.

7. **Comments of Other Committees**

The Audit and Corporate Governance Committee considered the new Article 9 and Article 9A at an extraordinary meeting on 18th January 2022. Members asked that paragraph 36 of the Revised ToR be amended to make clear that the Committee's regular reports to Council will be provided no less than once per annum. That change is incorporated in Appendix A.

Members also resolved to recommend to Council that the membership of the new Standards Committee should be drawn from the Members of the Audit and Corporate Governance Committee. **Note from the Monitoring Officer:** Members made this recommendation because they felt that as this particular group of Members had been trained in both activities it was sensible to draw the membership of the new Committee from this pool of Member. This might be true today but will not always be the case, since over time new Members will join the Audit Committee who have not had Standards training. It is also the case that Council must preserve the discretion to appoint whom it chooses to individual posts. Council might want to take into account the views of the Audit Committee at the time it makes appointments but that should not be enshrined in the Constitution.

8. **Conclusion**

Adoption of Article 9, the establishment of a Standards Committee and adoption of Article 9A will secure compliance with the one element of the Directions made by the Secretary of State on 1st December 2021. In addition, it will equip the Audit and Corporate Governance Committee to provide an independent and high-level resource to support good governance and strong public financial management. A dedicated Standards Committee will be able to focus entirely on upholding high ethical standards, strengthening the Council's governance arrangements in the process. Council is therefore asked to adopt the new Articles 9 and 9A Revised; and to approve the establishment of a Standards Committee with immediate effect.

9. **Appendices Attached**

- 'A' Proposed Revised Article 9
- 'B' Proposed New Article 9A

10. **Background Papers**

1. LGA Governance Review June 2020
2. DLUHC (formerly MHCLG) Governance Review dated September 2021, published 25th October 2021
3. DLUHC “minded to” letter dated 25th October 2021
4. Slough Borough Council: Directions made under the Local Government Act 1999 dated 1st December 2021
5. Slough Borough Council: Explanatory Memorandum dated 1st December 2021
6. Slough Borough Council: Commissioner appointment letters dated 1st December 2021.