

Meeting of:	<b>Governance and Audit Committee</b>
Date of Meeting:	Monday, 24 May 2021
Relevant Scrutiny Committee:	All Scrutiny Committees
Report Title:	Local Government and Elections (Wales) Act – Updated Committee Terms of Reference
Purpose of Report:	To provide Committee with an update on the current position with the Local Government and Elections (Wales) Act 2021 relating to the Governance and Audit Committee
Report Owner:	Mark Thomas Head of Regional Internal Audit Service
Responsible Officer:	Mark Thomas Head of Regional Internal Audit Service
Elected Member and Officer Consultation:	As this is a matter relating to the business of the organisation, no specific ward member consultation is necessary.
Policy Framework:	The proposals in this report are in accordance with the policy framework and budget.
<p>Executive Summary:</p> <ul style="list-style-type: none"> <li>• The report provides the Committee with an overview for information of the provisions within the Local Government and Elections (Wales) Act and in particular the provisions within the Act relating to the arrangements for Governance and Audit Committee at paragraph 2.5 of this report refers.</li> <li>• The report also provides Committee with an update on some additional changes to the Committees Terms of Reference made under the Managing Director’s Emergency Powers which comply with the current timescales of the Act and bring together in one place some aspects of the Committees remit that are found elsewhere in the Council's Constitution.</li> <li>• Appendix 1 to the report contains the full Terms of Reference as agreed at the Council's Annual Meeting on 10th May 2021.</li> <li>• The provisions of the Act that come into force by May 2022 will be subject to a further report to the Committee.</li> </ul>	

## **Recommendation**

1. That the Committee report and appendix be noted.

## **Reason for Recommendation**

1. To consider the current position with the Local Government and Elections (Wales) Bill and the action taken by the Vale Council in preparation for the same.

### **1. Background**

- 1.1 The Local Government and Elections (Wales) Bill [the Bill] was passed by the Senedd on 18th November 2020, precisely a year after it was introduced in 2019 and was received Royal Assent on 20th January 2021.
- 1.2 The Bill was one of only two Bills in the Welsh Government's legislative programme to continue during COVID 19. The Bill was prioritised given the timescales required to introduce planned electoral reforms in time for the 2022 local elections.
- 1.3 Links to the relevant documents are available here:

The link to the Act can be found here

<https://www.legislation.gov.uk/asc/2021/1/contents/enacted>

- 1.4 The Act has been the culmination of several years of policy consultation, including:
  - Draft Local Government (Wales) Bill – November 2015
  - Consultation on Electoral Reform – October 2017
  - Reforming Local Government: Resilient and Renewed White Paper - January 2017
  - Consultation on Powers and Flexibilities – January 2018
  - Strengthening Local Government: Delivering for People Welsh Government Green Paper - June 2018.
- 1.5 The Act is substantial and covers a range of topics from governance and performance, electoral reform, public participation, through to regional working. In summary the Act introduces:
  - Reform of the performance and governance regime;
  - Reforming electoral arrangements for local government;
  - Introduction of a general power of competence;
  - Reforming public participation in local government; and
  - Collaborative Working;

- 1.6 Cabinet has responded previously to the various policy documents referenced in paragraph 1.4 and those responses are not repeated here.
- 1.7 Both the Council's Cabinet and Corporate Performance and Resources Scrutiny Committee have considered and been apprised of the report and the action in December 2020 and January 2021 respectively.
- 1.8 The Audit Committee also received a presentation on the Act from the Head of Head of Policy & Business Transformation and the Head of the Regional Internal Audit Service in March 2021.

## **2. Key Issues for Consideration**

- 2.1 The 'Coming into Force' provisions of the Act are complex, with some provisions having come into force within days of Royal Assent, others within two months and the majority via Ministerial statutory instruments.
- 2.2 Remote attendance and related matters will be commenced from May 2021 (when the current emergency coronavirus meeting regulations end);
  - Performance and governance arrangements will be commenced from April 2021 (with the final performance report from the 2009 Measure published by 31st October 2021).
  - Most of the electoral reforms will be introduced in time for implementation at the 2022 local elections; and
  - The power of general competence, public participation duties, broadcasting of meetings and new councillor duties will apply from the 2022 local elections.
- 2.3 In relation to the Governance and Audit Committee, the Act introduces previously consulted upon reforms to Audit Committees. Section 115 of the Act came into force in April 2021. This covers matters relating to the Committee title, Performance Assessment and Complaints as set out below:
  - The title of the committee changing to Governance and Audit Committee  
The Committee will need to:
  - To consider the Council's draft Annual Performance Self-Assessment report and if deemed necessary may make recommendations for changes to the Council.
  - To receive the Council's finalised Annual Self-Assessment report in respect of a financial year as soon as reasonably practicable after the end of that financial year.
  - At least once during the period between two consecutive ordinary elections of Councillors to the Council, consider the independent Panel Performance

Assessment report into which the Council is meeting its performance requirements.

- To receive and review the Council's draft response to the report of the independent Panel Performance Assessment and if deemed necessary may make recommendations for changes to the statements made in the draft response to the Council.
- To review and assess the Council's ability to deal with complaints effectively.
- To make reports and recommendations in relation to the Council's ability to deal with complaints effectively.

**2.4** The other changes in Sections 116, 117 & 118 of the Act come into effect in May 2022 which relate to Lay membership and Chair.

- One third of the Committee's membership must be made up from Lay persons appointed by the Council.
- The Governance and Audit Committee shall be chaired by a Lay member elected by the Committee.
- The Vice-Chair elected by the Committee may be a Vale of Glamorgan Councillor or a Lay member but must not be a member of the Authority's Cabinet (Executive) or an assistant to its Executive.

**2.5** Having regard to the timescales above, in April 2021 the Managing Director exercised his Emergency Powers to rename the Audit Committee and amend its Terms of Reference to reflect the above. The opportunity was also taken to update the Terms of Reference having regard to CIPFA good practice and to bring together some of the existing remit of the Audit Committee as outlined elsewhere in the Constitution, into one place.

The additional changes to the Terms of Reference of the Committee were therefore made as follows :-

- (1) To consider the Council's draft Annual Performance Self-Assessment report and if deemed necessary may make recommendations for changes to the Council.
- (2) To receive the Council's finalised Annual Self-Assessment report in respect of a financial year as soon as reasonably practicable after the end of that financial year.
- (3) At least once during the period between two consecutive ordinary elections of Councillors to the Council, consider the independent Panel Performance Assessment report into which the Council is meeting its performance requirements.

- (4) To receive and review the Council's draft response to the report of the independent Panel Performance Assessment and if deemed necessary may make recommendations for changes to the statements made in the draft response to the Council.
- (5) To review and assess the Council's ability to deal with complaints effectively.
- (6) To make reports and recommendations in relation to the Council's ability to deal with complaints effectively.
- (7) Review and scrutinise the authority's financial affairs,
- (8) Make reports and recommendations in relation to the authority's financial affairs,
- (9) Review and assess the risk management, internal control, performance assessment and corporate governance arrangements of the authority,
- (10) Make reports and recommendations to the authority on the adequacy and effectiveness of those arrangements,
- (11) Oversee the authority's internal and external audit arrangements, and review the financial statements prepared by the authority,
- (12) A local authority may confer on its Governance and Audit Committee such other functions as the authority considers suitable to be exercised by such a committee,
- (13) It is for a Governance and Audit Committee to determine how to exercise its functions.

**2.6** For Members' information, attached at Appendix 1 is the complete updated Terms of Reference of the Governance and Audit Committee, which includes the additions approved by the Managing Director and as agreed at the Vale Council's Annual Meeting on 10th May, 2021.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

**3.1** As this is a report which simply seeks to update on progress on the Act there are no direct links to the Five Ways of Working. Elements of the Act will however have a positive impact on many of those ways of working, whether this be through promoting involvement and engagement or promoting collaboration through CJs.

## **4. Resources and Legal Considerations**

### **Financial**

- 4.1** None directly applicable to this report. The Action Plan has been drawn up from existing budgets and individual elements will have future cost implications. Where these relate to CJs and new performance measures, they are picked up separately within the relevant reports.

### **Employment**

- 4.2** None directly applicable to this report given the report seeks to update Committee on progress with the Act. Any specific employment or workforce issues arising from the proposed CJs and new performance measures are addressed as necessary in those reports and responses to consultation.

### **Legal (Including Equalities)**

- 4.3** As indicated in the main body of the report.

## **5. Background Papers**

Draft Local Government (Wales) Bill – November 2015

Consultation on Electoral Reform – October 2017

Reforming Local Government: Resilient and Renewed White Paper - January 2017

Consultation on Powers and Flexibilities – January 2018

Strengthening Local Government: Delivering for People Welsh Government Green Paper - June 2018

**Updated Terms of Reference**

**Governance and Audit Committee (7 Members plus 1 Lay Member)**

Composition

The membership of the Governance and Audit Committee is to be determined by Council subject to:

- (a) At least two thirds of the members must be Vale of Glamorgan Councillors of whom no more than 1 member may be a member of the Cabinet who must not be the Leader.
- (b) Up to one third of the members may be from outside the Council and at least one member must be a lay member.

Chairing the Committee

The Governance and Audit Committee shall be chaired and vice-chaired by persons elected by its members. The Chairman and Vice Chairman may be a Vale of Glamorgan Councillor or a lay member, but must not be a member of any Group which has Members on the Executive.

Voting

All Governance and Audit Committee members, including lay members, have the right to vote on any issue considered by the Committee.

Frequency of meetings

The Committee must meet at least once a year.

Terms of Reference:

- (1) To consider the external auditor's annual report and other relevant reports; and to make recommendations on their implementation to Cabinet and/or Council as appropriate.
- (2) To consider specific reports as agreed with the external auditor and to make recommendations on their implementation to Cabinet and/or Council as appropriate.
- (3) To maintain an overview of Contracts Procedure Rules, Financial Regulations; and Officers' Codes of Conduct and behaviour and to make recommendations to Cabinet and/or Council as appropriate.

- (4) To monitor Council policies on “Raising Concerns at Work” and the anti-fraud and bribery strategy and the Council’s complaints procedure and to make recommendations to Cabinet and/or Council as appropriate.
- (5) To oversee the production of the Council’s Annual Governance Statement and to recommend its adoption.
- (6) 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.
- (7) Overall responsibility for the maintenance and operation of the Whistleblowing Policy.
- (8) To consider the Council’s draft Annual Performance Self-Assessment report and if deemed necessary may make recommendations for changes to the Council.
- (9) To receive the Council’s finalised Annual Self-Assessment report in respect of a financial year as soon as reasonably practicable after the end of that financial year.
- (10) At least once during the period between two consecutive ordinary elections of Councillors to the Council, consider the independent Panel Performance Assessment report into which the Council is meeting its performance requirements.
- (11) To receive and review the Council’s draft response to the report of the independent Panel Performance Assessment and if deemed necessary may make recommendations for changes to the statements made in the draft response to the Council.
- (12) To review and assess the Council’s ability to deal with complaints effectively.
- (13) To make reports and recommendations in relation to the Council’s ability to deal with complaints effectively.
- (14) Review and scrutinise the Authority’s financial affairs.
- (15) Make reports and recommendations in relation to the Authority’s financial affairs.
- (16) Review and assess the risk management, internal control, performance assessment and corporate governance arrangements of the Authority.
- (17) Make reports and recommendations to the Authority on the adequacy and effectiveness of those arrangements.
- (18) Oversee the Authority’s internal and external audit arrangements, and

- Review the financial statements prepared by the Authority.
- (19) A Local Authority may confer on its Governance and Audit Committee such other functions as the Authority considers suitable to be exercised by such a Committee.
- (20) It is for the Governance and Audit Committee to determine how to exercise its functions.

With delegated powers:

- (1) To approve the Internal Audit Charter.
- (2) To approve the risk-based Internal Audit Plan and to approve significant interim changes to the risk-based Internal Audit Plan.
- (3) To oversee the Council's Internal Audit arrangements (including the performance of the providers of Internal Audit).
- (4) To contribute to the Quality Assurance and Improvement Programme and, in particular, to the external quality assessment of Internal Audit that takes place at least once every five years.
- (5) To consider and approve 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 risk management, internal control and corporate governance arrangements.
- (6) To consider and approve summaries of special internal audit reports as requested.
- (7) To consider and approve reports dealing with the management and performance of the providers of internal audit services.
- (8) To consider reports from internal audit on agreed recommendations not implemented within a reasonable timescale and approve necessary remedial action.
- (9) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (10) To commission work from internal and external audit.
- (11) To review and determine on any issue referred to it by the Head of Paid Service, Section 151 Officer, Monitoring Officer or by a Director, or any Council body.
- (12) To approve measures to ensure the effective development and operation of risk management and corporate governance in the Council.

- (13) To consider the Council's arrangements for corporate governance and to approve necessary actions to ensure compliance with best practice.
- (14) To approve the external auditor's report to those charged with governance on issues arising from the audit of accounts.