

Joint Audit and Governance Committee



Report of Head of Legal and Democratic

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Terms of Reference Review for the Joint Audit and Governance Committee

Recommendation

To make any recommendations about the updating of the Joint Audit and Governance Committee’s Terms of Reference to the Joint Constitution Review Task Group and each Council for inclusion in the councils’ constitution.

Implications (further detail within the report)	Financial	Legal	Climate and Ecological	Equality and diversity
	Yes	Yes This is a useful report in that it allows reflection but the implications of a change carry risks some of which will be invisible or require a different political relationship between the authorities.	No	No

Signing off officer	Simon Hewings, Head of Finance & Section 151 Officer	Nick Bennett Monitoring Officer	Chloe Bunting, Senior Climate Action Officer	Ruth Lewin-Leigh
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Purpose of Report

1. To outline the inputs and reasoning behind the current Terms of Reference for the Joint Audit and Governance Committee and provide members the opportunity to review it and assess whether it remains fit for purpose.

Strategic Objectives

2. The completion of the review of the Joint Audit and Governance Committees Terms of Reference supports the following objectives:
 - Openness and accountability in South Oxfordshire
 - Working in an open and inclusive way in the Vale of White Horse

Background

3. Following a training session for members of the Joint Audit and Governance (JAG) Committee after the Local Elections in May 2023, the Committee agreed to the recommendation from the trainer to review their Terms of Reference (ToR) – attached as Appendix 1 to the report. This review would ensure that the committee was in conformity with the statutory requirements and members expectations.
4. When initially agreeing the South Oxfordshire and Vale of White Horse District Council JAG Committee ToR, the councils used the example of Adur and Worthing’s JAG Committee¹. Subsequently, the ToR for both these committees remain similar. The Adur and Worthing JAG Committee continues to remain in operation.
5. However, there are some areas of difference between Adur and Worthing’s JAG Committee and that of South and Vale’s. In Adur and Worthing, there is a single quorum for all members of the JAG Committee, unlike South and Vale where there are two separate quorums with two members needed from South and two from Vale. In addition, votes of the Adur and Worthing JAG committee are a collective vote by the committee and are not done per council, even on council specific items, unlike South and Vale.
6. From a governance perspective, the Adur and Worthing ToR would be expected from the establishing of a joint committee as when you form such a committee you agree to share decision making with the other council. In practice then, the South and Vale JAG Committee operates on a number of matters more like two committees meeting at the same time, rather than a Joint Committee as such.

¹ The Terms of Reference for the current Adur and Worthing Joint Audit and Governance Committee can be found on their website [here](#).

7. Other examples of District Council joint committees exist, such as with Babergh and Mid Suffolk², Broadland and South Norfolk³, and South Cambridgeshire and Cambridge City Council⁴. They each take a slightly different approach and there is no consistent method of operating a joint committee across the country, with some joint committees taking South and Vale's approach and others being closer to Adur and Worthing.
8. The legislation for the establishment of joint committees is provided for by The Local Government Act 1972⁵, The Local Government Act 2000⁶, and The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012⁷. However, as the exact terms of reference and procedural operation of these committees are not defined, local authorities can decide on these based on their own needs and understanding of good governance and decision making.
9. When assessed against the legislation and requirements for the council, officers are satisfied that the current items delegated to the committee in the ToR (points 1 and 2 in Appendix 1 to the report) meet the committee's statutory requirements. In addition, officers are content that the ToR include the areas expected by the Chartered Institute of Public Finance and Accountancy (CIPFA), succinctly defines the committee's role, and leaves enough space for members to bring relevant items to the committee.
10. Although officers were also satisfied with the committee's current procedure rules, this is an area in which there is more scope for revision if the committee considers it appropriate. One such potential area for improvement could be the introduction of Co-Vice Chairs for the committee.

Co-Vice Chairs

11. The current JAG Committee has two Co-Chairs, one from each council. These Co-Chairs take turns chairing meetings of the committee and are responsible for signing off documents such as the Statement of Accounts. In cases where one Co-Chair is unavailable, the other Co-Chair has been called on to step in.
12. However, as a Co-Chair from one council cannot sign off the Statement of Accounts for the other council, and considering that the chairing of the committee could fall to one Co-Chair more than the other, officers recommend that the committee agree to suggest the creation of Co-Vice Chair appointments, one for each council.
13. These Co-Vice Chairs can take on the responsibilities of the Co-Chair from their Council. This will ensure that the chairing of meetings is shared equally between the Councils and that necessary documents can be signed off in a timely manner if the Co-Chair is unavailable.

² Babergh and Mid Suffolk District Councils run a Joint Audit and Standards Committee and its Terms of Reference can be found on their website [here](#).

³ Broadland and South Norfolk District Councils run a Joint Scrutiny Committee and its Terms of Reference can be found on their website [here](#).

⁴ South Cambridgeshire and Cambridge City Council run a Joint Development Control Committee and its Terms of Reference can be found on the Cambridge City Council website [here](#).

⁵ The Local Government Act 1972 (c. 70), Part VI, Section 102

⁶ The Local Government Act 2000 (c. 22), Part 1A, Chapter 2

⁷ The Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012), Part 4

Committee membership

14. The current membership of the committee is four members of each council, plus an independent member, and is required to be politically balanced in accordance with the provisions of the Local Government and Housing Act 1989⁸. Officers consider that the current size of the committee is sufficient in order to properly conduct the duties of the committee.
15. If members agree to introduce the Co-Vice Chair positions, these would need to be appointed from the existing committee membership.

Points to consider

16. Any change to the committee's membership would need to be approved by both councils or the committee would not be able to function.
17. If the committee wanted to consider council specific items of business without the other council present, there is provision in the current ToR about Audit and Governance Sub-Committees which could be used for that purpose.
18. A meeting of the South or Vale Audit and Governance Sub-Committee could be done with the agreement of the relevant Co-Chair, could cover council specific items, and could do so without any amendment of the constitution. This is outlined in points 3, 4, and 5 in the committees procedure rules appended to the report.

Options for review

19. There are four potential options the committee can take at the end of the review:
20. Option One:

Agree that the current Terms of Reference and procedure rules for the committee are in conformity with the statutory requirements and meet the councils' current needs.
21. Option two:

Agree to amend the wording of the Terms of Reference but keep the wording of the procedure rules.
22. Option three:

Agree to keep the wording of the Terms of Reference but amend the wording of the procedure rules.
23. Option four:

⁸ The Local Government and Housing Act 1989 (c. 42), Part 1, Section 15

Agree to amend the wording of both the Terms of Reference and the procedure rules.

Financial Implications

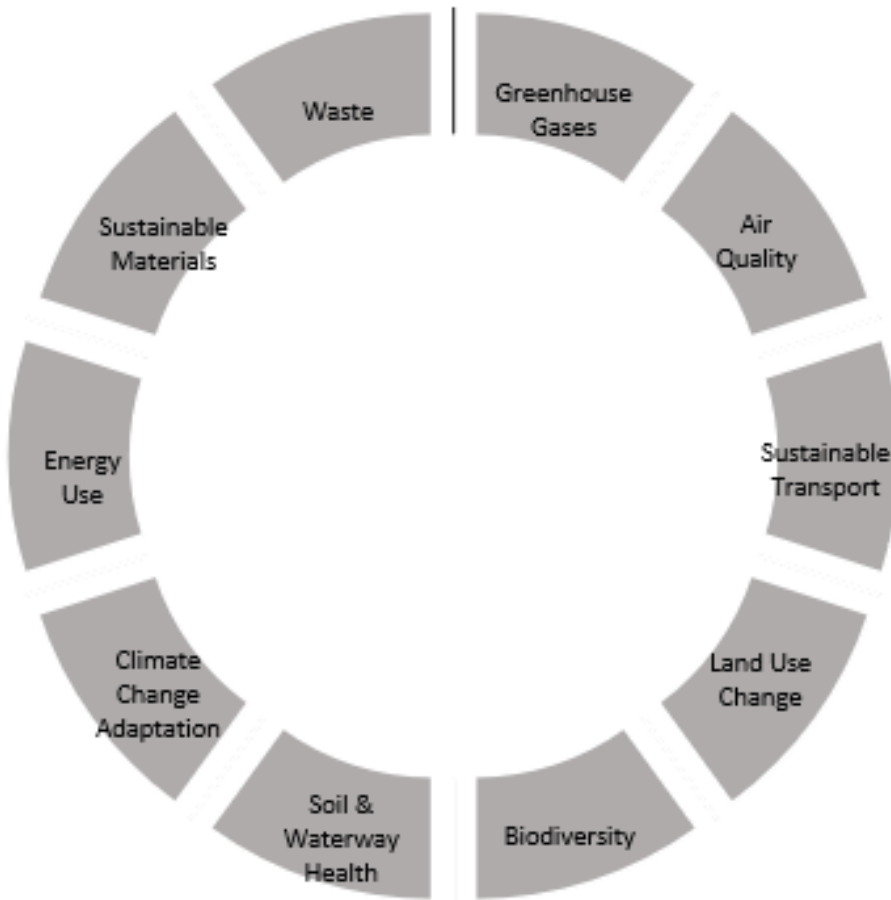
24. There may be financial implications arising from the review of member allowances if the councils choose to create the two Vice-Co Chair positions. Specifically, if those posts were created, the decision whether to provide them a special responsibility allowance and the level of such an allowance would need to be determined.

Legal Implications

25. Whilst there are legally available options to make changes will generate potential unintended consequences here. The strong individuality of each Council and preference for local decisions being made locally to reflect those separate needs and preferences is protected by the first recommendation ("leave as is"). Some of the functions under the terms of reference could be challengeable by affected persons for example if a complaints panel considering behaviour was made up of members of the other authority because that is very much a non-standard approach. This could be overcome by redrafting the terms of reference in great detail. The challenge of some responsibilities needing to be settled by the individual Council (as is discussed in the report as relates to Vice Chairs) is also problematic until and unless a different relationship between the Councils was in place.

Climate and ecological impact implications

26. There are no expected climate and ecological impact implications resulting from the review of the committee's terms of reference.



ENVIRONMENTAL	Scores	Action	Justification
GHGs	0	No action required.	No change to any use of energy, travel time, or land
Air quality	0	No action required.	No change in outdoor air pollution or indoor air quality.
Sustainable Transport	0	No action required.	No change to transition to sustainable transport.
Land use change	0	No action required.	No change to the current landscape. Outputs of report
Biodiversity	0	No action required.	No change to impact on flora or fauna directly or
Soil and waterway	0	No action required.	No change to health of soil or waterways.
Climate Change	0	No action required.	No change to proposals to withstand climate change
Energy Use	0	No action required.	Report and its recommendations will not impact the
Sustainable Materials	0	No action required.	Report only effects council governance, not a physical
Waste	0	No action required.	Should have no impact on the quantity of waste

Key

	Significant and/or long-term positive impact identified. No changes needed.
	Slight or short-term positive impact identified. No changes needed but could be reviewed to improve.
	No net change.
	Slight or short-term negative impact identified. Review to identify possible improvements.
	Significant and/or long-term negative impact identified. Changes needed before proceeding.
	Not applicable.

Equalities implications

27. In making decisions the council is required to have regard to its equalities duties and in particular to those set out in section 149 of the Equality Act 2010 to eliminate discrimination, harassment, victimisation and eliminate any other conduct that is prohibited by or under the Act, to advance equality of opportunity between persons who share a protected characteristic namely age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation, and persons who do not share it and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

28. There are no direct equalities implications arising from this report.

Risks

29. There are no expected risk implications resulting from the review of the committee’s terms of reference.

Other Implications

30. There are no other implications expected as a result of reviewing the committee's terms of reference.

Conclusion

31. The committee is asked to note the contents of the report and review the Joint Audit and Governance's Terms of Reference.

32. If there were any points that the committee agree should be revised, a resolution to send those changes to the Joint Constitution Review Task Group, and then a meeting of each council, would be needed.

Background Papers

- None