



NORTHAMPTON
BOROUGH COUNCIL

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Directorate:
Governing Northampton

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**REVIEW OF POLITICAL
STRUCTURES AND GOVERNANCE
ARRANGEMENTS**

Purpose of Report

To seek Council's approval in principle in relation to changes to the Council's political structures and governance arrangements for formal adoption at the Council meeting in September 2005.

Recommendations

The Council is recommended to:

- Agree, in principle the proposed new political governance structures set out below for implementation from September 2005 and the frequency of their meetings.
- Agree the setting up of "shadow" arrangements for the new structures (Improvement Board; Overview & Scrutiny Committee; Audit Committee; Portfolios or any other appropriate body required), in readiness for the September implementation.
- Agree the immediate establishment of the Improvement Board which will formally commence its work after constitutional amendments are made.
- Agree the Contract between the Council, Cabinet, Overview & Scrutiny and the Improvement Board, set out in Appendix 2.
- Agree the setting up of an Audit Committee.
- Adopt the Recovery Plan as part of the Council's policy framework.
- Agree that a further report be brought to the September Council meeting implementing the new structures and making amendments to the constitution.
- Agree the development of guidelines for the scope and openness of Improvement Board meetings to be brought to the September Council meeting.

- Agree the immediate commencement of training, briefings and development processes and practices for Councillors to facilitate and support the political structure changes.
- Agree the longer-term constitutional review process to report back to full Council in 2006.
- Appoint post holders to committees/or continue existing arrangements.
- Agree to fully support the Councillor Development Programme to facilitate the effective implementation of these new arrangements.
- The new arrangements being in place for a Council year beginning in September 2005 and running through to May 2006.

Summary

This report sets out new transitional governance arrangements for Northampton Borough Council, including revised political structures. They include some changes to Executive arrangements, new structures for Overview & Scrutiny, a new Audit Committee and the establishment of an Improvement Board to drive and ensure the implementation of the Council's Recovery Plan.

CONTEXT

As part of Northampton Borough Council's Recovery Plan, the Council committed itself to a review of its political structures and of its overview and scrutiny function (Objectives L14 and L17). This work has been led by an all party Political Structures and Working Practices Review Working Group, with external support.

The CPA process and ongoing feedback from the Government Monitoring Board have identified that political leadership and the decision-making processes need to be improved in order for the Council to recover and sustain service improvement and community leadership. At present the Council's political structures and working arrangements do not provide a sufficient focus and emphasis on addressing the priority areas to bring about the significant improvement required to meet its obligations to local people. Considerable effort and resources are still being applied to non-priority areas which has undermined the pace at which the Council has been able to implement its recovery plan.

As Northampton Borough Council is a politically balanced council the complexities of negotiating cross-party agreement on major elements of the recovery process – such as approving the budget and the corporate plan – have hampered the ability of the Council to make the tough decisions it needs to make to address priority areas and abandon or reduce effort and resources applied to non-priorities. Whilst Overview & Scrutiny should have provided the mechanism to hold Councillors to account for the recovery process, the number of committees, an unclear nexus with the Executive and insufficient emphasis in the work of these committees on the recovery agenda has meant that this accountability process has been ineffective and frustrating for those Councillors who serve on Scrutiny Committees.

Ongoing discussions with ODPM officials, our government Monitoring Board and the latest progress report from the Audit Commission indicate that progress is not being achieved at a satisfactory pace. It has become increasingly apparent that the Council needs to find a radical solution to address the shortcoming of its political decision-making and leadership.

Further, the Leader, Group Leaders, Chief Executive and Directors met with Phil Woolas MP, Minister for Local Government on 29 June 2005 to discuss Northampton's apparent lack of progress. A letter from the Minister outlines comprehensively what he requires the Council to do in relation to political structures, service improvement, medium term financial strategy and political and staff capacity building. The Minister has stated that he is expecting the Council to ratify the new structures at its meeting on 21 July failing which it is possible that he may formally invoke intervention powers. A brief outline of the powers available to the Secretary of State is set out in Appendix 1.

Accordingly, the Council has a limited opportunity to demonstrate that it can deliver improvement. It is the Minister's view that getting effective governance arrangements in place is the key part of that process. The Chief Executive also holds this view.

THE PROPOSED STRUCTURE

Given the large-scale changes in the political structures, leading counsel, Anthony Scrivener QC, was briefed to examine this report and the proposed new structures.

This report complies with his advice.

The proposed new structure is set out on the following page, and the detail of each main element is given within this report. It is proposed that these structures, in particular the Improvement Board, will be in place for approximately two years or until the Government removes the Council from intervention, whichever is the sooner, at which point the structures will be reviewed. The effectiveness of what the Council is doing will be regularly monitored by the Audit Commission "direction of travel" reports, by quarterly external peer challenge and by the full Council on an annual basis. These new structures represent an intention to focus the Council resolutely on the improvement and recovery process.

Prior to the September implementation date, shadow arrangements will be put in place. The relevant bodies will be formed, populated and will commence meeting and training, as appropriate, in readiness for the September implementation date.

SUMMARY

Full Council remains the primary decision-making body, setting the context within which the other elements work. The leader and cabinet form of constitution is retained and the Executive will now be known as the Cabinet. The Cabinet will have six Councillor members, with portfolios aligned with the new management arrangements. Greater delegation of Cabinet decision making to Portfolio Holders is introduced. The scrutiny arrangements are radically changed. There will be one Overview & Scrutiny Committee, able to set up time-limited panels to carry out reviews of strategic importance. An Audit Committee with a focus on risk management and assurance will be introduced. The regulatory committees of Planning, Licensing, and Standards are maintained, as are the Area Partnerships, Local Joint Consultative Committee and Forums. All other committees will cease. This is all in line with the requirements for council constitutions of the Local Government Act 2000, and powers of Council and Executive decision-making are maintained in line with statutory requirements.

The Improvement Board is a new body and is required to drive the improvement agenda, linking political arrangements with the Council's management, and ensuring a rigorous focus on priorities.

1. BOROUGH COUNCILLORS NEW ROLE IN CONSULTATION AND PUBLIC ENGAGEMENT

An important dimension of the Council's improvement is to strengthen the ward councillor role to ensure that there is effective engagement with local people. Whilst a number of councillors may have other responsibilities, the role of community engagement and providing a direct link with the ward issues is crucial in the improvement process. Accordingly, under the proposed structure there are direct opportunities for the ward councillor role to contribute significantly to the work of the Improvement Board and the Improvement Clinics by consulting on specific matters. Their reports may also be presented to Full Council. All Councillors will have performance targets and be measured against these.

2. COUNCIL

Purpose: The Council maintains its statutory role as the primary democratic body.

Powers and responsibilities: As set down in statute, the Council approves the Council's major policies (the Policy Framework) and budget. The Recovery Plan as approved by the Council, becomes part of the Policy Framework. Cabinet and other decisions must be taken within the framework this sets. The Council must also approve changes to its own constitution.

Membership: All elected Councillors.

Frequency of meetings: Six meetings a year is proposed. An additional meeting will be held for the budget (if required). Emergency or special meetings could be called in line with the Council’s current constitutional arrangements.

Flow of decision-making: Cabinet and other decisions must be taken within the framework set by the Council. The Improvement Board and the Cabinet will lead the development of policy and budget proposals, involving Councillors and other stakeholders as appropriate. These proposals will be put to the Council for agreement/amendment according to a clear annual timetable. The Overview & Scrutiny Committee and the Audit Committee can also report to the Council, as necessary.

Model/typical agenda: A proposed model framework for the agenda of the Council:

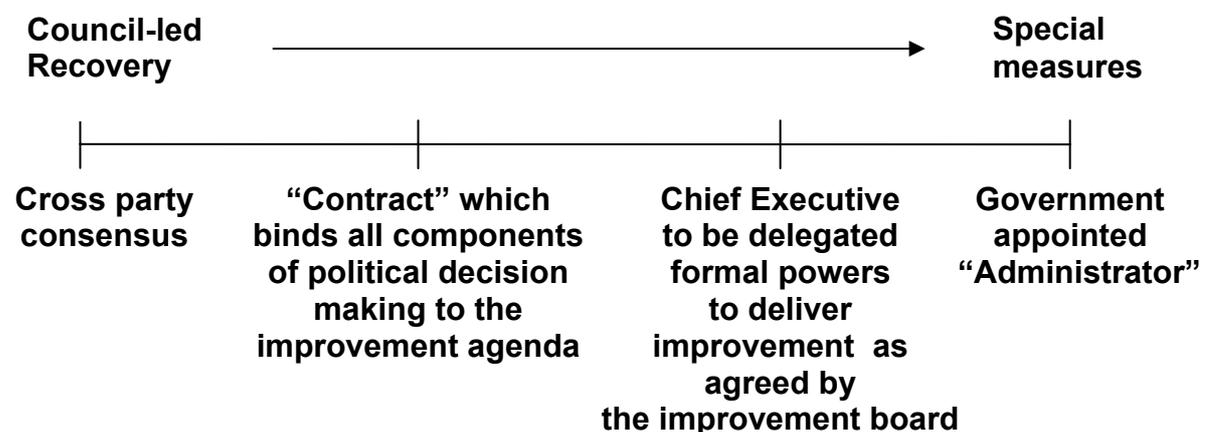
- Discussion of the policy framework and other major issues timetabled through the year.
- Chief Executive, on behalf of the Improvement Board, to report on progress against the recovery plan.
- Other major debates on Borough issues, possibly including external speakers (for example LSP partners).
- Leader and Portfolio Holders to present short written reports, with questions from Councillors and public.
- Questions, comments, motions – with sufficient time to prepare answers, 3 working days proposed.
- Scrutiny reports: selectively, for example major reviews, annual report.
- Ward Councillors to report regular consultation with citizens.

The minutes of Cabinet and Scrutiny should not routinely be on the Council agenda neither should the minutes of other committees.

Improvement Board – Performance Management/Monitoring

Purpose: To ensure the implementation of the Recovery Plan, and be accountable to Full Council and Cabinet for its achievement.

Status: There are a number of options available to empower the Board to drive up the Council’s performance. These are outlined in the chart below:



Powers and responsibilities:

The Improvement Board will be set up jointly by the Cabinet and full Council and will have wide delegated powers to make decisions in relation to any matters within the improvement/recovery agenda. The Chief Executive will be given delegated powers (by Cabinet and full Council), to implement the decisions of the Improvement Board in any way she thinks appropriate to aid the Council's recovery.

The Improvement Board will regularly report to Cabinet and full Council, in relation to its decisions for noting and information purposes only.

The "contract" set out in Appendix 2 will not have any formal legal status, but is a working agreement between Cabinet, full Council and the Improvement Board which aims to promote behaviours that support the improvement/recovery process.

Membership/Participation:

- Chief Executive of NBC
- Leaders and one other member each of the three NBC political groups.
- NBC Directors.
- Member from the local trade union.
- Chief Executive of Northamptonshire County Council.
- Representative from West Northampton Development Corporation.
- A representative from the business community.

We are awaiting Anthony Scrivener QC advice on the chairmanship of the Improvement Board.

Whilst it is not envisaged that this will happen as the norm, substitution of Improvement Board members will be allowed in exceptional cases.

It is envisaged that the decision making process will be open and transparent.

However, given the change programme and its particular impact and nature of discussions, there will be times when these meetings will have to be conducted in private as in any other Council meeting.

Guidelines will therefore be developed on this aspect and the Improvement Board will work to these guidelines.

The Council's Monitoring Officer and Chief Finance Officer (Section 151 Officer), will be required to attend these meeting as of duty to observe proceedings and decision making and advise as appropriate.

Frequency of meetings: Fortnightly

Flow of decision-making: The Improvement Board will be a vital part of the Governance's arrangements in the transitional period. It will be able to take decisions for the Authority. Where issues require political decision-making the Board will ensure they are put before the Cabinet appearing on the Forward Plan of key decisions as necessary or the regulatory committees. Where issues require management action they will feed into the Council's management structures; in particular it is envisaged that the Chief Executive will employ delegated powers to give effect to the Improvement Board's proposals on a wide range of matters.

The Board will set the Forward Plan for Cabinet and it will set the Overview & Scrutiny Committee's work plan (subject to compliance with statutory and constitutional requirements), and may propose reviews to be carried out by the Overview & Scrutiny Committee, or commission other reviews, such as Best Value reviews, as necessary. The Board will also link Council operations with partnership work, such as the implementation of the Local Area Agreement, and Community Strategy, with the Local Strategic Partnership.

The Board will develop a protocol to which it will work outlining clearly, where relevant information in relation to its decisions can be found and details of delegated decisions.

Model/typical agenda:

The Board will formulate a work plan, which will drive the agenda. Standing items may be included to cover key areas of concern. The Board's meeting cycle will provide it with a specific focus in key areas of the recovery plan. On a quarterly basis the Board will review the Council's overall progress against its recovery plan through a mini CPA self-assessment process with external challenge. The Board will be required to act upon performance information to rectify any issues and to commission more extensive reviews in consultation with the Audit Commission of services that are not improving at a sufficient pace. The Board will also set priorities for the Council and devise the corporate plan and Medium Term Financial Strategy.

3. CABINET

Purpose: The Cabinet provides the political leadership of the Council.

Powers and responsibilities: A Leader and Cabinet structure is continued, but with six revised portfolios. The Cabinet of six members, including the Leader, should focus on major strategic and corporate issues, with delegation of operational and departmental decisions to individual portfolio-holders or Officers. The Cabinet takes executive decisions and provides political leadership for the implementation of the Council's corporate strategy, including the Recovery Plan, other policies and budget. Members of the Cabinet will represent the Council within partnership structures such as the Local Strategic Partnership.

Membership: The following structure, which would correspond to the management structure approved by full Council, with six Cabinet members and portfolios, is proposed:

1. Community Engagement (Leader of the Council)
2. Business Intelligence; People Support; E-Government
3. Local Environment
4. Residential Operations
5. Economic & Infrastructure
6. Financial Strategy; Democratic Services (Deputy Leader of the Council)

Frequency of meetings: 6 times per year (plus delegated decision-making).

Flow of decision-making: A scheme of delegation, to be agreed at the September Council meeting, will set out the decision-making responsibilities of the Cabinet as a whole, and delegation to individual portfolio holders and senior managers. Arrangements will be introduced, as required by law, to ensure access to information, and clear and accessible recording of decisions. Key Decisions, to be taken by the Cabinet, its individual members or the Improvement Board and will be published in advance.

Improvement Clinics: These will not be a formal part of the Council's constitution, but are proposed to promote transparency, accountability and provide a link between service delivery and priorities. The clinics will operate on a 'triage' basis so that serious problems take priority and are addressed immediately. Each of the six portfolios listed above will also have an Overview & Scrutiny Lead Member. The Portfolio Holder, the Scrutiny Lead Member and the appropriate Service Head/Director will meet to discuss forthcoming Key Decisions and other service issues.

Model/typical agenda: The Cabinet will have a work plan devised by the Improvement Board which will ensure focus on important corporate issues. Most single-service and operational issues will be delegated to Portfolio Holders. The Cabinet will receive regular reports from the Improvement Board, and work with them to ensure implementation of the Council's policy framework including the Recovery Plan.

4. OVERVIEW AND SCRUTINY COMMITTEE (POLICY AND REVIEW)

Purpose: Its primary role during the transitional arrangements will be to ensure that the Council delivers on the recovery plan. The Committee scrutinises the work of the Cabinet and its members, reviews Council policies and performance, and scrutinises issues of importance to the Borough.

Powers and responsibilities: The Overview & Scrutiny Committee holds all the overview and scrutiny powers required by law. It will scrutinise the work of the Cabinet, and the performance of the Council, including the effective implementation of the Recovery Plan. It has the power to call-in any Cabinet decision as well as an Executive decision delegated to a Portfolio Holder or Senior Manager. It can call on Cabinet Members and Managers in support of

its work. It contributes to policy development. Reviews will be carried out by the Committee or by time-limited panels set up by the Overview & Scrutiny Committee. The panel's allocation of time to complete the task in hand will depend on the complexity, scope and detail of the task. The Committee or a panel can also review matters that fall outside the Cabinet. The panels (or 'task and finish' groups) will have a specific brief to address and then be wound up. It is expected that they will meet, commission work and report back and this may be achieved within 1-2 meetings. Accordingly, these panels will not become *de facto* standing committees that are rolled-over from task to task.

Membership: The Committee will have 12 permanent members, 5 Conservative, 4 Lib-Democrats and 3 Labour. The Chair will be a Liberal Democrat and the deputy will be a Labour member. The details of names for positions will be brought to the September Council meeting. It will be able to establish 'task and finish' panels which could also involve other Councillors and non-voting co-optees. The following Councillors will not be able to sit on the panels:

1. Cabinet members.
2. Permanent members of the Committee.
3. Members of the Improvement Board.

Frequency of meetings: Six times a year. Urgent meetings to enable call-in, as necessary. Panels to meet as necessary, but in accordance with the work plans of Scrutiny, Improvement Board and Cabinet.

Flow of decision-making: The Committee can call in any executive decision, as at present but in future it will be able to call in delegated decisions (portfolio holders and officers). Reports and recommendations will be made to the Cabinet as a consequence of reviews. It is proposed that Overview and Scrutiny review reports would go to the Improvement Board to add their comments but the Improvement Board would not have the power to amend the report or its recommendations. Arrangements will be put in place to monitor the response to and implementation of recommendations. The Overview and Scrutiny Committee also has powers to report to the Council. The Improvement Board, or the Cabinet, can request the Overview and Scrutiny Committee to carry out specific reviews.

Model/typical agenda: The scrutiny work plan devised by the Improvement Board will focus on the need to support effective implementation of the Recovery Plan. It will carry out policy and service reviews to this end. It will receive reports on the Council's performance. It may call- in executive decisions. One of the grounds for this would be that a decision did not appear to be in line with the Recovery Plan.

5. AUDIT COMMITTEE (RISK MANAGEMENT AND ASSURANCE)

Purpose: The Audit Committee will ensure the Council provides effective value for money, including financial probity.

Powers and responsibilities: The Audit Committee will be an independent committee that will assess the Council's risk management framework and consider financial matters of relevance in accordance with CIPFA or other financial guidance. It will, for example receive regular budget monitoring reports and other internal audit reports. It will receive any reports from the District Auditor. It will provide a focus for discussion on any issues raised in the annual audit and inspection letters sent to Councillors, and monitor action on issues raised. The Audit Committee will receive the Best Value Performance Plan and Performance Management reports.

Use of resources is a major theme for assessment under the revised approach to CPA, under five headings: Financial reporting; Financial management; Financial standing; Internal control; and Value for money. This has so far been set out for single tier and county councils for 2005 – 2008. The arrangements for District Councils are likely to take a similar approach. The increased emphasis means that an Audit Committee is strongly recommended. The Audit Committee will monitor the Council's work under the Efficiency Review (the Gershon requirements), which require an annual efficiency statement from councils.

Membership: The Audit Committee would have 6 Councillors as its membership, two from each political party. However, the Committee will not have Cabinet members sitting on it. The membership will also include co-opted members (without voting rights) external experts that can assist with assessing the Council's risk management and internal controls.

The Chair of the committee will be drawn from the Labour party and the deputy from the Liberal Democrat party.

Details of the names of the committee members (including the Chair and Deputy Chair) will be brought to the September Council meeting.

Frequency of meetings: Six times a year.

Flow of decision-making: The Committee would receive reports from the Council's financial management staff, from its internal and external auditors and other appropriate staff. The Audit Committee will report primarily to Full Council but may also report and make recommendations to the Cabinet or the Improvement Board and Council as it thinks appropriate.

Model/typical agenda:

To be determined by the Committee.

Other elements of the structure

The Planning, Licensing and Standards Committees will continue structurally unchanged. However, the Committee memberships are to be confirmed at this full Council meeting.

Area Partnerships, Local Joint Committees and Forums will be maintained but subject to further review in the light of the council's need to improve public consultation and engagement

In order to concentrate councillor-level focus on improvement, Committees which are not legally required will not be maintained (General Purposes, Civic Issues, Markets Liaison, Grants). However, delegations in relation to the work these committees undertake will be identified and brought to the September meeting.

Recovery Plan

The recovery plan will be adopted by Council and form part of the Council's forward policy framework. The current recovery plan will be tabled at this Council meeting.

Constitutional review

If agreed by the Council, the recommendations in this report, which require changes to the Council's constitution, will be put to the Council meeting in September 2005. However, it is proposed that the Council's constitution needs more fundamental review. The Chief Executive, working with Legal Services, and external advisors as required, should put in place arrangements to review the Council's constitution more fundamentally, to ensure it is an effective working document. A timetable for this review should be established, to report during 2006.

Timetable for Implementation and Training and Development

The Improvement Board, the Audit Committee, the Overview and Scrutiny Committee and the Portfolios should be established immediately in a shadow capacity although formal work will not commence until implementation powers have been approved by Council in September.

Work to facilitate the workings of the new structures such as training, briefing and development processes and practices should commence immediately and dates have been set in September

Training and Development for councillors undertaking all roles should commence immediately. Councillors are requested to make a commitment to attend all required training sessions. Performance Management reporting will include attendance at such sessions.

Changes to political structures requiring changes to the Council's constitution, should be put to the Council meeting in September 2005, for implementation from September.

Councillor Allowances

The changes arising from the structural and governance arrangements outlined in this report will have an impact on Councillor roles and responsibilities. A review of Councillor allowances will be conducted through the remuneration panel with recommendations to be brought to full Council.

Council Development Programme

A key factor to the effectiveness of the new arrangements is to ensure that councillors are committed to the Councillor Development Programme. The Programme is currently being redeveloped to directly respond to the development needs of councillors to be effective under the new arrangements.

Appendix 1: Powers of the Secretary of State to Intervene

POWERS AVAILABLE TO THE SECRETARY OF STATE

The Council has a legal duty under section 3 of the Local Government Act (the 1999 Act) to obtain best value and to make arrangements to secure continuous improvement in relation to its functions. A failure to comply with this general duty enables the Secretary of State to use a number of powers within the 1999 Act against Councils that fail to comply with this duty.

The Council's poor rating under the CPA regime indicates that the Council may be failing in this general duty and raises the possibility of the Secretary of State engaging powers under section 15 of the Local Government Act 1999. Normally the Secretary of State will not invoke these powers if he is of a view that the Council will, through its own efforts and with support from the ODPM, improve.

The Secretary of State has very wide powers under the 1999 Act and could do the following:

- a) He could issue a direction to the Council to take specific action to ensure compliance with its duty to obtain best value. The direction would specify what action was required. For, example the SOS can direct the Council to prepare and amend a performance plan; follow specified procedures in relation to a performance plan and to carry out a review of specified functions and/or
- b) The Secretary of State has the power directly, or through a nominee, to exercise any function of the Council. In practice this means that the Secretary of State can send in representatives to directly run Council services. This intervention can range from certain services, for example Housing Benefits, to all the functions for which the Council is responsible. This arrangement would continue for as long as the Secretary of State thought appropriate.

If this were to happen the Council would in effect lose the power to run the services identified by the Secretary of State.

The powers outlined above can be enforced by the Secretary of State through the High Court.

Appendix 2: The Contract

The Contract

This document which will be brought to the September Council meeting for ratification. It will set out the arrangements for the Improvement Board and will be styled as a contract or agreement between the Council, the Cabinet and the Improvement Board. This should not however be taken to imply that the Improvement Board will have a legal identity separate from the Council or that the document will be enforceable as a legal contract.

The Contract will set out the make up of the Improvement Board and the frequency of its meetings as described above. It will also include as an appendix the Council's priorities and targets for improvement as identified in the Corporate Plan and Community Strategy.

The Contract will broadly cover the following:

The Commitment of the Council and Cabinet – The Council and Cabinet will agree to support and facilitate the work of the Improvement Board in achieving its objects.

The Role of the Board – will be to oversee the implementation of all measures necessary to achieve the Council's targets and priorities for service improvement and governance and satisfy the Audit Commission and the Secretary of State that the Council is performing to an acceptable level.

The Composition of the Improvement Board

The Board will be attended by the Chief Executive; Leaders and other Councillors from the three NBC political groups; Chief Executive of Northamptonshire County Council; a Representative from West Northampton Development Corporation; NBC Directors, a member of the local trade union and a representative from the business community (and any other relevant people).

The Monitoring Officer and the Chief Finance Officer (Section 151 Officer) will be informed of and be entitled to attend the meetings of the Board:

The Operation of the Board

The Board will meet initially every fortnight, and then every month (the time taken is to be determined). The Board will have powers to make decisions and the Chief Executive will have delegated powers to implement its decisions in any way she thinks appropriate.

The Status of the Contract

The Contract will not have any formal legal status and is meant to be a working agreement between full Council, Cabinet and the Improvement Board.

Matters with which the Board may deal – The Board may consider all aspects of the Council's performance in delivering services and carrying out its functions. This will include consideration of what should be included in the Council's Forward Plan. The Board will not seek to influence decisions to be taken by the Planning, Licensing or other Regulatory Committees.

Relationship with Overview and Scrutiny Committee – The Board may suggest matters which the Overview and Scrutiny Committee should include in their programme of work and if the Board do so the Overview and Scrutiny Committee should take on such suggestions and afford the matters concerned appropriate priority.

Relationship with Cabinet – The Cabinet will retain responsibility for the functions of the Council (other than those reserved to full Council or assigned to the Regulatory Committees).

Relationship with Government Monitoring Board – The Improvement Board will work in parallel with the GMB. Unlike that body the Improvement Board will form part of the Council's management structure. It will continue notwithstanding any future cessation of the GMB.

Liaison with ODPM and Audit Commission – The Improvement Board will be the principal group through whom liaison with the ODPM and Audit Commission will take place on matters relating to the Council's recovery process.

Standards, Behaviours and Commitment

A code of conduct and behaviour based on the Nolan report will be brought to the September Committee.

Conflict Resolution – If a dispute should arise under the Contract it can be resolved by referral to the Council's Monitoring Officer.

A full text of the contract will be submitted to the September meeting of the Council, together with detailed texts for the other proposed governance arrangements and changes made necessary by the new Council structure.