

Report to: Audit and Risk Assurance Committee / Full Authority
Agenda #: 15
Date: 17 June 2021 / 23 June 2021
Subject: Code of Governance Refresh 2021/22
Sponsor: Head of Governance and Compliance
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For: Decision

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1. Purpose of Paper

- 1.1 To brief Members on, and seek their approval for, recommended amendments to Committee terms of references and the wider BTPA Code of Governance.

2. Background

- 2.1 The Full Authority generally conducts a refresh of its Code of Governance annually. This involves a review of Committee terms of references within the Code. This year, each Committee has been given the opportunity to review its terms of reference and make recommendations, where relevant, to the Audit and Risk Assurance Committee and the Full Authority for approval as part of a wider refresh of the Code of Governance.
- 2.2 Members are asked to note that the terms of reference for the Appointments and Remuneration Committee remain unchanged for the time being pending a comprehensive refresh later in 21/22 to reflect recommendations arising from the Executive's oversight mapping project and through Member feedback in the Board Effectiveness Evaluation. Likewise, Annex 7 (Scheme of Financial Delegation) requires further review in light of the recent delegation letter issued to BTPA by DfT.
- 2.3 Likewise, Members are asked to note that the terms of references for the Authority's Working Groups (Transformation, Pension, Policing Plan) will be reviewed later in 21/22 in advance of the 21/22 reporting cycle.

3. Committee Terms of References

- 3.1 **Performance and Delivery Committee.** PDC considered its terms of reference at its meeting on 7 May 2021, and recommended that explicit reference to its wellbeing, health and safety commitments should be made in the refreshed Code.
- 3.2 **Scottish Railways Policing Committee.** SRPC considered its terms of reference at its meeting on 25 May 2021 and agreed they remained fit for purpose, with no amendments required.

- 3.3 **Strategy and Planning Committee.** SPC considered its terms of reference at its meeting on 1 June 2021 and recommended that (a) risk deep dives should be added to terms of references for each Committee (b) agreement of operational performance metrics should be transferred to the Performance and Delivery Committee (c) SPC should assume oversight of progress against objectives within the Strategic Plan and (d) SPC should include horizon scanning within its remit.
- 3.4 **Audit and Risk Assurance Committee.** ARAC considered its terms of reference at its meetings on 11 March 2021 and 17 June 2021. Recommended changes are likely to involve responsibility for assurances relating to financial reporting, ethical standards, and data, systems and information. It will also likely be recommended that ARAC approve the strategic risk register, risk appetite and risk documents.
- 3.5 ~~ARAC meets on 17 June 2021 after Full Authority papers are published (16 June 2021) and therefore the outcome of its terms of reference review will be reported verbally to the Full Authority meeting on 23 June.~~
- 3.6 Update [18 June 2021] The proposed revisions to Audit and Risk Assurance Committee's terms of reference have been provided as an appendix.
- 3.7 Members will note that ARACs terms of reference are benchmarked against HM Treasury's Audit and Risk Committee Handbook (2016) and related CIFPA Audit Committee guidance.

4. Code of Governance Refresh

- 4.1 The overall Code of Governance (2019) with recommended tracked changes is provided as a background paper due to the size of the Code. This section provides a summary of changes.
- 4.2 Minor changes include ensuring accuracy of the Code. These include reference to the current Chief Constable, appropriate pronouns, references to EU/UK law and correcting typographical and formatting errors.
- 4.3 Substantive changes include,
- Changes, where relevant, to Committee terms of reference(s) (pp.19 – 23)
 - Members receiving a board evaluation letter each August, rather than each April (p.10)
 - A revised description of the Executive Review Group to better reflect current practice (p.23).
 - A revised description of Member Portfolio obligations (p.24).
 - A revised paragraph regarding the Joint Risk Register and how it is reported to the Full Authority (p.33)
 - Simplified wording regarding Information Management (p.34)
 - A revised deadline for despatch of meeting papers to one calendar week prior to a meeting (p.92)

- Revised wording governing decisions made outside of meetings (p.94). Please refer to section 5 below regarding this revision.
- Revised date of annual agreement of Committee terms of references to June each year (previously May) (p.95).
- Revised wording to make it clear that, whilst Committee meetings are held in private, papers will be published in advance of the relevant meeting in line with the Authority's Publication Scheme (p.96).

Sections that were reviewed and deemed fit for purpose included the management of complaints against the Force (p.7) and the date of submission of the annual report and accounts (p.55), the latter as it falls within the be Framework Agreement which can only amended in consultation with DfT.

5. **Revision to Out of Committee Procedure for Urgent Matters**

- 5.1 **Current Position.** At present the Chief Executive takes urgent decisions on behalf of the Board and its Committees, in consultation with Members and, where relevant, the Chief Constable. A record of the decision is kept on file and reported to the next meeting of the Authority.
- 5.2 **Proposal.** It is proposed that a more nuanced approach to decision-making outside of formal meetings is adopted that (a) acknowledges the flexibility afforded by virtual means, including Board Intelligence (b) acknowledges the gap between quarterly meetings, which can act as a brake on timely decision making and (c) moves the emphasis on decision making away from the Chief Executive, back to the Board/Committee in whose remit the decision lies.
- 5.3 It is therefore recommended that the section on *out of committee procedure for urgent matters* be retitled *decisions between scheduled meetings* and redrafted as follows:
- 5.4 ***Decisions Between Scheduled Meetings***
Between scheduled meetings of the Authority and/or its Committees if, on the advice of the Chief Executive, the Authority/and or its Committee have agreed that a decision in advance of the next scheduled meeting is necessary, then the Authority and/or its Committee may take a decision in one of the following ways:
- *A virtual or in-person meeting called at short notice;*
 - *A quorum of Members, including the Chair, considering the decision via correspondence and confirming their support;*

Underpinning the procedure for decisions between scheduled meetings are the following principles:

- *An issue that requires a decision by Members should be considered at a scheduled meeting where possible, with the procedure for decisions between scheduled meetings being used as a last resort.*

- *The Force and/or Authority Executive will provide a report, as far as is practicable, as if the decision were being reported to a scheduled meeting of the Authority/Committee.*
- *Members will be given, as far as is practicable, one calendar week to consider the decision, acknowledging there may be occasions where an unforeseen issue requires decision against a shorter deadline.*
- *Any decision made between scheduled meetings will be reported in writing to the next scheduled meeting of the Authority or relevant Committee for information.*

6. Recommendations

6.1 Members of Audit and Risk Assurance Committee are asked to,

- Consider the proposed amendments to the refreshed Code of Governance, alongside any amendments to their own Committee's terms of reference and make a recommendation to the Full Authority for approval.

6.2 Members of the Full Authority are asked to,

- Approve the proposed amendments to the terms of references of each of its Committees.
- Approve the proposed amendments to the wider Code of Governance

Appendix A Proposed Audit and Risk Assurance Committee Terms of Reference [as agreed at that Committee's 17 June 2021 meeting]

Appendix B [Background Papers Pack] Draft BTPA Code of Governance 2021/22