

Wednesday, 10 August 2022

Report of the Audit Manager

Independent Member Update

Exempt Information

None.

Purpose

To provide an update to Committee in relation to the potential appointment of an Independent Member(s) to Committee.

Recommendations

Consider and ratify the approach to be taken in respect of appointing an Independent Member to the Committee following resolution of questions raised by Committee.

Executive Summary

At this Committee's meeting on 10 February 2022 and 22 March 2022, this item was deferred from the agenda to allow consideration of the next steps and the answering of questions raised by this Committee. The questions raised and answers provided to the committee are outlined below and were communicated to Audit & Governance Committee members via email in July 2022, a summary of which follows;

- The Rehabilitation of Offenders Act should apply;
- Significant business dealings, the independent member must not have any contractual relationship with the council during the previous 3 years, prior to application, or must not be seeking any type of commission with the authority for the term of the appointment.
- All interests would need to be declared and due to the nature of the role, as an independent member, the successful candidate would need to be able to show and demonstrate this independence and transparency. Any independent member would also be required to comply with our code of conduct.
- It was agreed that we would include a line about 'do you have any relationships that could give rise to a conflict of interest.' To support this further we would reinforce this within the recruitment process to include 'declaration of interests and activity within community, political and voluntary environments'.
- 'Under the Localism Act, Section 28 – a person may not be appointed unless the person's appointment has been fully approved by a majority of the members of the authority. The constitution details that full council will appoint the independent person. The Constitution (2.8.3) details the Audit & Governance Committee may co-opt up to two independent (non elected) non-voting persons as and when it deems

appropriate, for a period or periods it may determine'. On this basis it is suggested that it is reasonable for the Audit & Governance Committee to act as the recruitment panel with additional support from Officers.

Further information has also been received in respect of the CIPFA's Position Statement on Audit Committees and this is contained within **Appendix 1** of this report and replaces the 2018 edition. As part of having an independent and effective model, CIPFA makes the following observations;

- The audit committees of local authorities should include co-opted independent members in accordance with the appropriate legislation; and
- Where there is no legislative direction to include co-opted independent members, CIPFA recommends that each authority audit committee should include at least two co-opted independent members to provide appropriate technical expertise.

As Audit & Governance Committee are aware we conduct regular Audit Committee training and annual review the effectiveness of the committee, this was last reported to this committee in February 2022, as part of this review CIPFA recommends that it should consider the overall knowledge and expertise of the existing members of the committee.

The Audit & Governance Committee's current terms of reference provides for at least seven members (aligned with the political balance of the Council) and the option to co-opt up to 2 independent members.

In terms of the voting rights of independent members, there needs to be regard to Section 13 of the Local Government and Housing Act 1989 which relates to the voting rights of non-elected committee members. Where the audit committee is operating as an advisory committee under the Local Government Act 1972, making recommendations rather than policy, then all members of the committee should be able to vote on that recommendation. As Full council currently delegates decisions to the committee, for example the adoption of the financial statements, then the independent member will not be able to vote on those matters for decision.

An updated roadmap, previously reported in March 2022 is shown below;

Roadmap	Indicative Timeline
Role profile for independent member to be drawn up and agreed. Committee to agree the recruitment process and number of independent members required (up to 2).	September 2022
Vacancy to be publicly advertised. Candidates to be able to demonstrate their political independence and their suitability has to be checked e.g., candidates must not; <ul style="list-style-type: none"> • be a Councillor or officer of the Council or have been so in the preceding five years prior to appointment; • be related to, or a close friend of, any Councillor or officer of the Council, that would include 'do you have any relationships that could give rise to a conflict of interest'; • have been convicted of any offence taking into account the Rehabilitation of Offenders Act. The Council has the right to DBS check any independent committee members; • be an undischarged bankrupt; • have significant business dealings with the Council which includes that the independent member must not have any contractual relationship with the council during the previous 3 years, prior to application, or must not be seeking any type of commission with the authority for the term of the appointment; • have a formal connection with any political group; 	Oct/Nov 2022

<ul style="list-style-type: none"> • have a proven history of vexatious and/or frivolous complaints against the Council; • be the holder of a significant office in an organisation being grant aided/supported by the Council. 	
Selection process to take place	December 2022
Independent member/s appointed. This should be for a fixed term (usually 3 years) and be formally approved by the Council. Provision to be made for early termination and extension to avoid lack of clarity in the future.	Jan/Feb 2023
Independent member/s commence. While operating as a member of the audit committee, the independent member/s would be required to follow the same code of conduct as elected members and a register of interests maintained.	March 2023

Options Considered

Previously considered and agreed to implement Independent Member at Audit & Governance Committee on 23 July 2020 and 22 February 2022.

Resource Implications

It is envisaged that the Independent Member role is not remunerated. However this decision may need to be revisited dependent upon the interest shown and results of the application process.

Legal/Risk Implications Background

None currently.

Equalities Implications

None.

Environment and Sustainability Implications (including climate change)

None.

Background Information

Audit & Governance Committee 23 July 2020, Pros and Cons of Independent Members.
Audit Committee Effectiveness 10 February 2022

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List of Background Papers

Appendices

