

Report of the Director of Finance and IT to the meeting of the Governance and Audit Committee to be held on 15 June 2023

Subject:

Consideration of the Appointment of Independent Members or an Advisor to the Governance and Audit Committee.

Summary statement:

CIPFA's Position Statement: Audit Committees in Local Authorities and Police 2022 recommends the appointment of independent members to the Audit Committee. This report details the issues around the appointment of independent members or an advisor to Bradford Council's Governance and Audit Committee.

EQUALITY & DIVERSITY:

An effective Governance and Audit Committee provides assurance that the appropriate decision making processes and accountability arrangements are in place which allows Service Objectives to be delivered in accordance with the Council's equality policies

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Portfolio:

**Corporate
Improvement Area:**

Corporate

1 SUMMARY

- 1.1 CIPFA's Position Statement: Audit Committees in Local Authorities and Police 2022 recommends the appointment of independent members to the Audit Committee. This report details the issues around the appointment of independent members or an advisor to Bradford Council's Governance and Audit Committee.
- 1.2 On the 23rd March 2023 the Governance and Audit Committee recommended the following to Council
- for Article 9 of the Council's constitution to be amended so that the composition of the Governance and Audit Committee includes either non-voting Independent members or a non-voting Independent Advisor. That the proposal is supported by a report detailing the advantages and disadvantages of the alternatives.
 - that the recruitment process of the non-voting Independent members or a non-voting Independent Advisor be delegated to the Director of Finance and IT in consultation with the Chair of Governance and Audit Committee. The Governance and Audit Committee need to determine whether they wish to recommend to Council the appointment of one, two or no Independent Members to the Committee.

2. BACKGROUND

- 2.1 In 2022 CIPFA updated its Position statement on Audit Committees in Local Authorities and the Police with supporting guidance. CIPFA has recommended the appointment of at least two co-opted Independent Members to Audit Committees in England to provide appropriate technical expertise. Although there is no current legal requirement to do so, the government is considering making it a statutory requirement to include an independent member on audit committees.

The GAC at present does not have an independent member. There are no statutory definitions of 'independent' for audit committee members in local authorities however The Local Government and Elections (Wales) Act 2021 defines a lay member as a person who:

- is not a member or an officer of any local authority
 - has not been a member or an officer of any local authority in the last 12 months
 - is not the spouse or civil partner of a member or officer.
- 2.2 In relation to the difference between an advisor and an independent member, for the purposes of this report, the main difference is that an advisor could be provided by an organisation through a contract, whereas a member is a specific individual with a direct relationship with the Council that cannot be transferred. The professional responsibilities of an advisor or a member should be no different nor should the way they undertake the role.
- 2.3 Whilst it is not specifically mentioned an independent member of the Governance and Audit Committee should be politically neutral and not a member of a political party. The benefits to the Committee of an independent member, would be the technical expertise they could bring to the work of the Committee, in respect of their understanding of both internal and external audit processes and the ability to review

statutory accounts. Bradford Council's Governance and Audit Committee also has responsibility for the West Yorkshire Pension Fund. An independent member with either Pension Fund or investment experience would provide a further critical resource in these areas of activity.

2.4 There are some potential pitfalls to the use of independent members that should also be borne in mind.

- Over-reliance on the independent members by other committee members in local authorities can lead to a lack of engagement across the full committee.
- A lack of organisational knowledge or 'context' among the independent members when considering risk registers or audit reports.
- There is a risk that the posts will not be filled creating additional pressure on the Councillors who are members of the Committee.
- Both independent members and officers/staff must try to establish an effective working relationship and appropriate protocols for briefings and access to information.

These factors should be considered when developing the committee structure and plans put in place to provide an appropriate level of support to the audit committee members.

2.5 If independent members are to be appointed, the vacancy will need to be advertised. Finding a suitable candidate may take time and whether the post holder would be paid an allowance would need to be considered. A clear role description should be established which addresses the following areas:

- The role of the co-opted independent member, including expected time commitment and location of meetings.
- The suggested appointment period and options for renewal (two terms would be a suggested maximum appointment period).
- The definition of 'independent' applicable to the role.
- Any restrictions or conflicts of interest that would make a candidate unsuitable. As the role is non-political and requires working with elected representatives in a local authority, it is recommended that candidates should not be political party members.
- Vetting requirements
- Desired knowledge, experience and skills.
- Payment of allowances and expenses if any.
- The expected conditions of engagement, including adherence to the authority's Members' code of conduct, disclosure of interests, etc.
- Council orientation and support that will be provided in the role.

2.6 Consideration needs to be given to attracting suitable candidates. Normal practice in recruitment for non-executive roles such as this will be a CV and supporting letter. Adopting this approach may assist in attracting candidates. The inclusion of the current GAC chair in this process would be essential and the opportunity to meet senior Councillors would emphasise the value of the GAC.

- 2.7 It must be noted that neighbouring Councils have had significant difficulty in recruiting to their independent member roles. However the Council may be able to reduce this risk by
- Selecting candidates beyond the local area. If candidates are able and willing to travel to attend the required meetings and supporting activities, then living outside the authority area should not be a barrier to suitability.
 - Working with other authorities in the region to promote and support opportunities to be an independent member.
 - Advertising nationally or using specialist agencies if professional knowledge and skills are required.
 - The opportunity for an informal discussion on the role with a senior officer or committee chair.
 - Ensuring an easy application process
- 2.8 In relation to the appointment of an Independent Advisor this would have the benefit that the delivery of the service could be continuous and not dependent on an individual. The service could be procured through a tendering process and the type of professional advice clearly detailed. The clear disadvantage of this approach is that it is a new concept and in the future may not comply with any statutory requirements

3. OTHER CONSIDERATIONS

- 3.1 The workload of the GAC is extremely heavy with two sets of accounts and audit arrangements to monitor.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 The appointment of one or two independent members will have costs attached but these will not be significant. Any proposals to pay co-opted Independent Members an allowance or expenses would need to be considered by the Independent Remuneration Panel. If an independent advisor was to be appointed then the price would be determined through the tendering process, this could see a significantly larger cost being incurred.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1 The effective operation of the GAC is essential for the Council's management of risk.

6. LEGAL APPRAISAL

- 6.1 Section 151 of the Local Government Act 1972 requires every local authority to make arrangements for the proper administration of its financial affairs.
- 6.2 The Accounts and Audit Regulations 2015 state that a local authority is responsible for "a sound system of internal control which facilitates the effective exercise of its functions and the achievement of its aims and objectives; ensures that the financial and operational management of the authority is effective and includes effective arrangements for the management of risk". CIPFA states that Audit committees in

local authorities are necessary to satisfy the wider requirements for sound financial management and internal control.

- 6.3 A person who is disqualified under the Local Government Act 1972 for being a member of the Local Authority is also disqualified for being a member of a committee of that authority
- 6.4 The Local Authorities (Members' Allowances) (England) Regulations 2003 permit the Council to pay an allowance to a co-opted Member of a Committee. This would require the Members' Allowances Scheme to be amended to provide for this. The Scheme can only be amended by Full Council, which must have regard to a report from the Independent Remuneration panel on such a proposal.
- 6.5 Section 13 (1) of the Local Government and Housing Act 1989 says that a co-opted member of a committee established under Section 102 of the Local Government Act 1972 (i.e. a committee discharging the functions of the Council) must be a non-voting member. However, it is possible to appoint a co-opted member with voting rights to certain other committees including advisory committees. CIPFA's view is that where an audit committee is operating as an advisory committee under the Local Government Act 1972, making recommendations, then all members of the committee (including any co-opted members) should be able to vote on those recommendations. However, where a council has delegated decisions to the committee, for example the adoption of the financial statements, then independent members will not be able to vote on those matters for decision. Of course the situation in Bradford is further complicated by the role GAC play in WYPF. Any co-opted member could therefore only vote on advisory matters. Legal advice would be that any co-opted independent members should be non-voting under section 13 LGHA 1989 so there can be no room for challenge.

7. OTHER IMPLICATIONS

7.1 SUSTAINABILITY IMPLICATIONS

- The operation of an effective GAC ensures the Council's decision making complies with the principles of delivering good governance which includes the Council being able to deliver defined outcomes on a sustainable basis within the resources available.

7.2 GREENHOUSE GAS EMISSIONS IMPACTS

- There are no direct impacts on Greenhouse Gas Emissions

7.3 COMMUNITY SAFETY IMPLICATIONS

- There are no direct community safety implications.

7.4 HUMAN RIGHTS ACT

- There are no direct Human Rights Act implications.

7.5 TRADE UNION

- There are no implications for the Trade Unions arising from the report.

7.6 WARD IMPLICATIONS

- Specific Ward Issues are not normally areas of discussion for the GAC whose responsibilities are on a Council wide basis.

7.7 IMPLICATIONS FOR CHILDREN AND YOUNG PEOPLE

None

7.8 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

None

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

9.1 Option 1

That the GAC recommend to Council that Article 9 of the Council's constitution be amended so that the composition of GAC includes two Independent members, subject to a recruitment process

9.2 Option 2

That the GAC recommend to Council that Article 9 of the Council's constitution be amended so that the composition of GAC includes one Independent member, subject to a recruitment process

9.3 Option 3

That the GAC recommend to Council that Article 9 of the Council's constitution be amended so that the composition of GAC includes one Independent Advisor subject to the completion of a tendering process.

9.4 Option 4

To advise Council to maintain the current membership of the Governance and Audit Committee.

10. RECOMMENDATIONS

- 10.1 That the GAC recommend to Council that Article 9 of the Council's constitution be amended so that the composition of GAC includes 2 Independent members, subject to a recruitment process.

10.2 That the GAC recommend to Council that the recruitment process of the Independent Members be delegated to the Director of Finance and IT in consultation with the Chair of Governance and Audit Committee.

11. APPENDICES

➤ None

12. BACKGROUND DOCUMENTS

- CIPFA's Position Statement: Audit Committees in Local Authorities and Police 2022
- Audit committees Practical Guidance for Local Authorities and Police 2022 Edition.
CIPFA
- Council Constitution Article 9 Governance and Audit Committee