

**Public
Key Decision - No**

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Appointment of Independent Members to the Corporate Governance Committee

Meeting/Date: Council – 22nd February 2023

Executive Portfolio: Executive Councillor for Corporate & Shared Services, Councillor M Hassall

Report by: Deborah Moss, Internal Audit Manager

Ward(s) affected: All Wards

Executive Summary:

The purpose of this report is to seek Council's endorsement on the appointment of up to two Independent Members to the Corporate Governance Committee (CGC).

HDC's Corporate Governance Committee, which discharges responsibility as its audit committee, does not have an independent member. Following review and criticism of local audit and governance, Government reports and CIPFA position statements now recommend the appointment of at least one independent member, suitably qualified, to an audit committee (two members in the case of CIPFA's recommendation).

The government has further stated that it will be making audit committees, with at least one independent member, a mandatory requirement, once parliamentary time allows. Many councils have already appointed an independent member ahead of such mandatory requirement in the interest of good governance and transparency.

At the meeting of the Corporate Governance Committee held on 27th January 2023 Members approved the appointment of up to two Independent Members to the Committee and referral onto Council for a formal decision. At that meeting delegated authority was given to the Chair and Vice-Chair, in conjunction with the Corporate Governance Committee, to finalise the details of such a post ahead of the recruitment.

The Council is

RECOMMENDED

- (a) to approve the appointment of up to two non-voting Independent Members to the Corporate Governance Committee as set out in the report now submitted;**

- (b) to approve a variation to the membership of the Corporate Governance Committee as set out in Part 3 – Responsibility for Council Functions – of the Council’s Constitution as outlined in the report now submitted; and**
- (c) to make the necessary amendments to the Council’s Constitution.**

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to seek the Council's decision to approve the appointment of up to two non-voting Independent Members to the Corporate Governance Committee and to approve the necessary changes to the Council's Constitution.
- 1.2 A report recommending at least one independent member was presented to the Corporate Governance Committee at its meeting on 27th January 2023 and Members approved the principle and agreed that this be referred onto Council for a formal decision.
- 1.3 Although Members were supportive in principle of the recommendations, they raised a number of questions with regard to the details of the proposals. With this in mind and not wishing to add any unnecessary delay to the proceedings, it was agreed to give delegated authority to the Chair and Vice-Chair, in conjunction with the Corporate Governance Committee, to finalise the detail ahead of the recruitment process.

2. BACKGROUND

- 2.1 The CIPFA guidance for Audit Committees in Local Government states:
“Authorities and police audit committees should adopt a model that establishes the committee as independent and effective. The committee should:
 - *act as the principal non-executive, advisory function supporting those charged with governance*
 - *in local authorities, be independent of both the executive and the scrutiny functions **and include an independent member where not already required to do so by legislation***
 - *have clear rights of access to other committees/functions, for example, scrutiny and service committees, corporate risk management boards and other strategic groups”*

- 2.2 The CIPFA self-assessment checklist states:

“consideration has been given to the inclusion of at least one independent member (where it is not already a mandatory requirement)”.

3. NATIONAL CONTEXT

- 3.1 There have been recent governance failures identified in statutory and non-statutory reviews and public interest reports across local government. The common theme running through each failure is a “significant weakness in governance”.
- 3.2 In September 2020, Sir Tony Redmond completed an independent review into the Oversight of Local Audit and the Transparency of Local Authority Financial Reporting which recommended, amongst many other recommendations to improve local audit governance, *“consideration being given to the appointment of at least one independent member, suitably qualified, to the Audit Committee”.*

- 3.3 In December 2021, the Department for Levelling Up, Housing and Communities (DLUHC), issued their formal response to the Redmond Review and issued a series of measures to be implemented.

Within Measure 2, relating to local bodies and quality of accounting preparation, DLUHC made the following commitments:

- DLUHC to provide funding of £45 million over the course of the next Spending Review periods to support local bodies with the cost of strengthening their financial reporting, new burdens related to appointment of **independent members** and other Redmond recommendation and increased auditing requirements.
- CIPFA to publish strengthened guidance on audit committees by April 2022. The guidance will emphasise the role that audit committees should have in ensuring accounts are prepared to a high standard, alongside broader changes including appointment of independent members. Following consultation, consider making the guidance, committees and the independent member statutory.
- DLUHC to provide Local Government Association sector grant for a number of targeted training events for audit committee chairs.

- 3.4 As a result of the measures introduced by DLUHC above, **CIPFA** released an updated version of its Position Statement on Audit Committees in Local Government in June 2022. The new Position Statement sets out the 'purpose, core functions and membership of the audit committee'. It states: *The audit committees of local authorities should include co-opted independent members in accordance with the appropriate legislation. 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.***

- 3.5 More recent developments have been published as part of the Governments response to local audit reforms stating:

*"In September 2020, Tony Redmond's review into local government audit found that only 40% of audit committees interviewed had independent committee members, hindering transparent reporting. Responding to a consultation on Redmond review proposals, the government said the lack of independent members on council audit committees made them "anomalies" in the public sector. Fundamentally, it is important that councils, as with other public bodies, have appropriate measures in place: the government considers it proportionate to establish a simple principle that local authorities should have an audit committee, with at least one independent member. Mandating for audit committees would ensure widespread take-up, along with improved public accountability **Consequently, based on the consultation feedback, we will be making audit committees, with at least one independent member, a mandatory requirement, once parliamentary time allows**".*

4. ANALYSIS

- 4.1 A Council's Audit Committee should be independent of executive decision making and be able to provide objective oversight. It should have sufficient importance that its recommendations and opinions carry weight and have influence with the leadership team and those charged with governance. The Corporate Governance Committee is designated as the Council's "Audit" Committee.
- 4.2 To strengthen the Committee's standing further, it is proposed to co-opt at least one suitably qualified and experienced independent person who have specialist knowledge and insight, which, when partnered with elected Members' knowledge of working practices and procedures, will add to the deliberations of, and the overall effectiveness of the Committee. The injection of an external view can often bring a new approach to committee discussion.
- 4.3 The recruitment of independent co-opted Member(s) is supported by the Section 151 Officer.

The benefits of appointing an independent Member include:

- Bringing a new approach to committee discussion through the injection of a fresh perspective and challenge
 - Bringing additional knowledge and expertise to the committee
 - The Council accepting that strong and robust independent challenge to its internal control framework and wider governance processes, including financial reporting, risk management and the work of internal audit, will increase its effectiveness
 - Reinforcing the transparency and political neutrality of the committee
 - Maintaining continuity and corporate memory for the committee where its membership is affected by the electoral cycle. Independent appointments also send a powerful message to the electorate about both the openness of the Council and the independence of the committee.
- 4.4 There are several potential pitfalls in the appointment of an independent member that should be considered:
- potential over-reliance on the independent member by other audit committee members which can lead to a lack of engagement across the full committee
 - independent member lacking organisational knowledge or 'context' when considering reports or risk registers
 - effort that will be required from both the independent member and officers/staff to establish effective working relationship and establish appropriate protocols for briefings and access to information
 - finding that despite undertaking a rigorous appointment process, the person appointed are not suited to the role, requiring the selection process to be repeated
 - insufficient suitable applicants for the role.

Any Independent Member would be a co-opted member of the Corporate Governance Committee and have no voting rights.

5. CONSIDERATIONS

- 5.1 The Council's Constitution currently does not include provision for appointing co-optees to the Corporate Governance Committee.
- 5.2 CIPFA does acknowledge these limitations recommending that Local Authorities should have regard to section 13 of the Local Government Housing Act 1989 which relates to the voting rights on non-elected Committee Members.
- 5.3 At present there is no statutory requirement that determines local authorities must appoint Independent co-opted members – such appointments are a requirement for Police audit committees, English combined authorities and for local authorities in Wales, and it is usual practice for non-executive to be committee members in health and central government audit committees.
- 5.4 Members of the Corporate Governance Committee are supportive of seeking up to two Independent Members for the Committee
- 5.5 Whilst CIPFA proposes two independent members, it is currently proposed to recruit one member initially with future consideration for an additional member in a year's time. This will then allow a cover for crossover of current terms of office of District Councillors and allow for continuity and committee knowledge/memory to continue.

6. APPOINTMENT PROCESS

- 6.1 To avoid any delay in the appointment process the Corporate Governance Committee has delegated authority to the Chair and Vice-Chair in conjunction with the Corporate Governance Committee to finalise the details.
- 6.2 The selection process will be undertaken by an Appointments Panel comprising the Chair and Vice Chair of the Committee, Head of Finance and Resources and the Internal Audit Manager. Recruitment would be on a competitive basis, including an open advertisement and interviews.
- 6.3 Confirmation of the level of remuneration for such a role is still to be determined, although currently there is no budgetary provision.

7. LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND/OR CORPORATE OBJECTIVES

- 7.1 Local Authorities are accountable to their communities for the money they spend. They are required under law to ensure they provide value for money and to achieve this they require a governance framework that supports a culture of transparent decision making and accountability.

- 7.2 The appointment of up to two Independent Members would enhance and support the independent and transparent assurances provided by the Corporate Governance Committee.
- 7.3 The Corporate Governance Committee is a key component of the Council's corporate governance framework and so helps to deliver the Corporate Plan priority of delivering an efficient and effective Council.

8. CONSULTATION

- 8.1 In line with the Account and Audit regulations for 2020/21.

9. LEGAL IMPLICATIONS

- 9.1 Section 102(3) of the Local Government Act 1972 stipulates that a committee which discharges a function of the Council can include co-opted members, except where it is a committee set up to regulate and control the finance of the local authority.
- 9.2 Section 13(1) of the Local Government and Housing Act 1989 provides that a co-opted member of a committee established under section 102 of the Local Government Act 1972 as a committee that is discharging the functions of the Council, must be a non-voting member.
- 9.3 The Corporate Governance Committee discharges some functions of the Council (the review and approval of annual statements of accounts and approval of a draft annual governance statement). Therefore, whilst co-opted members can be appointed to the Committee, they are unable to be given voting rights. Their involvement would be in a consultative manner, with their views being taken into account by voting members of the Committee.
- 9.4 The Constitution will need to be amended to allow for the co-option of an independent member to the Committee. It is proposed that the Committee's terms of reference be amended to allow for the appointment of up to two co-opted independent, non-voting members.
- 9.5 The Local Authorities (Members' Allowances) (England) Regulations 2003 permit the Council to pay an allowance to a co-opted member of a committee.
- 9.6 Any advertisement and subsequent assessments would be carried out in accordance with the Council's recruitment processes. This seeks to ensure that the process is conducted in a manner that does not lead to discrimination.
- 9.7 The Council's Constitution provides the framework from within which it conducts its business. It describes who is responsible for making decisions and how decisions are made. The Council may amend its Constitution at any time to keep it up to date to reflect changes in the law or changes to Council policy and procedure.

9.8 The Constitution does not currently allow for Independent Members to be appointed to the Committee. It would need to be amended to allow for their inclusion.

10. RESOURCE IMPLICATIONS

10.1 There is currently no specific budget for the payment of any allowances to an Independent Member.

11. REASONS FOR THE RECOMMENDED DECISIONS

11.1 At present there is no statutory requirement to determine that local authorities must appoint Independent co-opted members.

11.2 There are both positive and cautionary reasons for such an appointment and decisions of this nature need to take account of each local authority's own circumstances.

11.3 The national landscape and direction of the government would indicate that greater accountability for public audit to support of audit committees, through co-opting independent members, will become a mandatory requirement.

12. BACKGROUND PAPERS

CIPFA Position Statement on Audit Committees in Local Government 2022.

Sir Tony Redmond's report on Oversight of Local Audit and the Transparency of Local Authority Financial Reporting

District Council's Constitution

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