

## **Corporate Policy Committee**

**15 June 2023**

### **Review of Outside Organisations for 2023**

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**Report of: David Brown, Director of Governance and Compliance**

**Report Reference No: CP/3/23-24**

**Ward(s) Affected: All**

#### **Purpose of Report**

- 1 To recommend to Corporate Policy Committee a revised procedure in respect of Cheshire East Council's appointments to outside organisations.

#### **Executive Summary**

- 2 The report sets out the recommendations of the Outside Organisation Panel, which was appointed by the Constitution Working Group to conduct a review of the appointments to outside organisation procedure.

#### **RECOMMENDATIONS**

The Corporate Policy Committee is recommended to agree the recommendations of the Outside Organisations Panel:

- 1 The organisations set out in the local list appended to the Outside Organisations Panel report, be removed from the formal appointments to outside organisations procedure, and that a communications plan be developed to assist with this transition.
- 2 The organisations set out in the statutory list appended to the Outside Organisations Panel report be retained as requiring a formal appointment.
- 3 The organisations set out in the retained list (of corporate importance) appended to the Outside Organisations Panel report, be retained as requiring a formal appointment.

- 4 The organisations set out in the organisations to be removed list and the alternative representation list in the Outside Organisations Panel report, be removed from the procedure for the reasons stated.
- 5 The organisation set out in the organisations to be added list in the Outside Organisations Panel report, be included in the statutory list.
- 6 Subject to each organisation's confidentiality arrangements, a communications plan be developed to enable Member nominees to feedback information to the Council, to enable issues of importance or interest to be discussed. Democratic Services officers to identify key service department officer contacts for each nominated member; officers to then determine whether this would give rise to a report on a formal decision to a service committee, action by the officer under delegated powers, or issues of wider Council importance to be brought to the attention of Members via the Members' Bulletin.
- 7 Remuneration received by Members appointed to the Peak District National Park Authority, Cheshire Fire and Rescue Authority, Cheshire Police and Crime Panel and the Council's wholly owned companies (ASDV's) be recorded as part of the published annual Record of Members' Allowances.
- 8 The Councillor's Guide to Outside Organisations, be reviewed and refreshed to i) reflect the new governance and procedural arrangements; and ii) ensure that the Council can minimise risk and protect the interests of itself and the Members who represent it on outside organisations.
- 9 To agree that, at the Annual Council meeting held in May each year, Council will formally agree the nominations to the Cheshire Police and Crime Panel, Cheshire Fire Authority, Fostering Panel and Adoption Panel for a four-year period, due to the scheduling of these meetings.
- 10 To agree that, at the Corporate Policy Committee's meeting on 6 July 2023, the Committee will formally agree the nominations to those organisations which have been retained on the Council's formal list of organisations (2 and 3 above) onto which it nominates Members, taking into account the new membership of the Council.
- 11 That, nominations made to these organisations will have a duration of 4 years from the July meeting of the Committee.

## **Background**

- 3 At its meeting on 14 July 2022, Corporate Policy Committee resolved that the Constitution Working Group should conduct a review of the Council's outside organisations appointment procedure, the Working Group to report its findings back to the Corporate Policy Committee.
- 4 The Constitution Working Group appointed from its membership, a three-member panel (the Outside Organisations Panel) to conduct the review on its behalf and co-opted a fourth member. The Panel met on six occasions between August and December 2022 to consider a range of matters relating to the procedure, as set out in its terms of reference (Appendix 1).
- 5 Whilst the principle of making appointments remains unchanged, the Panel has made several recommendations to streamline the procedure, provide opportunities for feedback, and reduce the number of organisations to which a formal appointment would be made.

## **Consultation and Engagement**

- 6.1 To inform the review, contact was made with all the outside organisations on the Council's current lists, to obtain information relevant to the Panel's considerations. Not all of the organisations responded.
- 6.2 Councillors were also consulted as to the added value of having a Council representative on the bodies concerned. Not all of the Council representatives responded.
- 6.3 Information was also drawn from the organisations' websites, constitutions, articles of association and memorandums of understanding.

## **Reasons for Recommendations**

- 7.1 Until the introduction of the committee system, appointments to outside organisations were made by Cabinet (top level strategic organisations at national, regional, and local level), Constitution Committee (organisations of a local nature) and full Council (statutory appointments). The appointments procedure needed to be reviewed before the local elections in May 2023, after which appointments to outside organisations will be made from the Council's new membership.

- 7.2 The Panel was of the view that, where an organisation had a presumption but not a legal requirement within its own constitution/terms of reference that an appointment would be made, this should not automatically guarantee that a formal appointment would be made.
- 7.3 The Constitution states that Corporate Policy Committee will appoint representatives to serve on outside bodies and organisations. To ensure that nominations to Cheshire Police and Crime Panel, Cheshire Fire Authority, Fostering Panel and Adoption Panel can be made in line with the organisations' scheduled meetings, the initial appointments will continue to be made at the Annual Council meeting, following the local elections.

### **Other Options Considered**

- 8.1 The decision-making powers under which appointments were made previously have changed. Therefore, the procedure must be reviewed to ensure that, when making appointments, the new governance arrangements are applied and that no conflicts of interest arise.
- 8.2 In theory, Council could agree not to adopt the recommendations, but this would not align with the wishes of the Corporate Policy Committee and would leave an administrative challenge in terms of how appointments to outside organisations should be made, given that the previous decision-making bodies are no longer in place.
- 8.3 All appointments could be made by Council at the first Annual General meeting of each term, but these appointments have been specifically delegated to the Corporate Policy Committee as set out in the Council's Constitution:

*Corporate Policy Committee Functions, paragraph 2.16*

*appointing representatives to serve on outside bodies and organisations (including education bodies and establishments) and reviewing the process for considering appointments to outside organisations.*

## **Implications and Comments**

### *Monitoring Officer/Legal*

- 9.1 Whilst membership of outside organisations carries with it the potential for personal liability for elected Members undertaking such roles as ancillary to their status as a Councillor, particularly in respect of trusteeships, Cheshire East Borough Council's Cabinet resolved on 9 February 2016 to put in place for elected Members the maximum indemnity which is allowed by law (Minute 105 refers).
- 9.2 Section 111 of the Local Government Act 1972 empowers local authorities to do anything which is calculated to facilitate or is conducive or incidental to the discharge of any of their functions, and Section 2 of the Local Government Act 2000 empowers them to do anything they consider likely to achieve the object of the promotion of the economic, social, or environmental well-being of their area. In addition, there is now the general power of competence under the Localism Act 2011. These are the main provisions which the Council would rely on to appoint members to outside organisations or to select those bodies to which they are appointed.
- 9.3 Legal advice has been provided in respect of those organisations on the local list, in respect of their nomination requirements, which was considered as part of the report.

### *Section 151 Officer/Finance*

- 10 There are no direct financial implications.

### *Policy*

- 11 Adoption of the Panel's recommendations would result in a new policy for making appointments to outside organisations. This is in line with the corporate plan aim of a council which empowers and cares about people and works together with residents and partners to support people and communities to be strong and resilient.

### *Equality, Diversity and Inclusion*

- 12 There are no direct equality implications.

### *Human Resources*

- 13 There are no direct Human Resource implications.

### *Risk Management*

- 14 The failure to appoint Members to outside organisations could have a direct or indirect impact on the organisations, which can be mitigated by the operations of a procedure for making timely appointments to ensure Council representation.

### *Rural Communities*

- 15 There are no direct implications for rural communities.

### *Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)*

- 16 There are no direct implications for children and young people.

### *Public Health*

- 17 There are no direct implications for public health.

### *Climate Change*

- 18 The aims and objectives of the outside organisations reflect the Council's commitment to becoming carbon neutral by 2025.

<b>Access to Information</b>	
Contact Officer:	Brian Reed Head of Democratic Services and Governance  brian.reed@cheshireeast.gov.uk
Appendices:	Appendix 1: Outside Organisation Panel Terms of Reference  Appendix 2: Report of the Outside Organisation Panel: Review of Outside Organisation Appointments for 2023
Background Papers:	1) Survey of outside organisations  2) Survey of Members appointed to outside organisations  3) Websites, constitutions, articles of association, memorandums of understanding from the organisations which were the subject of the review  4) Historical data previously provided by the organisations which were the subject of the review

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