

# **CHESHIRE EAST COUNCIL**

## **Constitution Committee**

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Date of Meeting:	24 <sup>th</sup> March 2011
Report of:	Democratic Services Manager
Subject/Title:	Outside Organisations – Various Matters

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### **1.0 Report Summary**

- 1.1 The Outside Organisations Sub-Committee, which met on 2<sup>nd</sup> March 2011, recommends the Committee to approve a number of proposals in respect of outside organisations. The minutes of the Sub-Committee's meeting are attached.

### **2.0 Recommendations**

2.1 That

- (a) the appointment of representatives to the Adoption Panel, Cheshire Admissions Forum and the Fostering Panel be referred to Annual Council;
- (b) no action be taken in respect of the appointment to the Crewe and Nantwich Twinning Association in the current Municipal Year;
- (c) Councillor S Wilkinson be appointed to the Standing Advisory Council for Religious Education (SACRE) to serve for the remainder of the Municipal Year;
- (d) no action be taken to appoint to Dial-a-Ride and Community Transport at the present time, pending the outcome of the Portfolio Holder's review of the arrangements for appointments to this organisation;
- (e) the revised Casual Vacancies Procedure be adopted for use in respect of Category 2 organisations and be commended to Cabinet for application to all Category 1 organisations;
- (f) the Sub-Committee be authorised to refer Category 1 organisations direct to Cabinet;
- (g) the proposed procedure for dealing with new requests for representation on outside organisations be adopted;
- (h) Holmes Chapel Partnership be added as a Category 2 outside organisation and that a Member be appointed to it;

- (i) it be noted that the Guide for Members Appointed to Outside Organisations has been finalised and issued to all Members; and
- (j) the procedure for making appointments in 2011-2012 be noted.

### **3.0 Reasons for Recommendation**

- 3.1 It is important for the Council to appoint to outside organisations to ensure that it continues to represent the interests of both the Authority and the wider community.
- 3.2 The revision to the Casual Vacancies Procedure has been designed to give maximum efficiency when casual vacancies occur between annual appointments. The procedure is in line with the practice adopted when casual vacancies occur on Council Committees.
- 3.3 The recently revised legal guidance will ensure that Members are made fully aware of their legal responsibilities and liabilities when taking up an appointment to an outside organisation.
- 3.4 The introduction of a procedure for adding to the list of outside organisations will provide transparency to the process.

### **4.0 Wards Affected**

- 4.1 Not applicable.

### **5.0 Local Ward Members**

- 5.1 Not applicable.

### **6.0 Policy Implications**

- 6.1 None identified.

### **7.0 Financial Implications**

- 7.1 None identified.

### **8.0 Legal Implications**

- 8.1 Whilst membership of outside bodies 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 has already resolved to put in place for elected Members the maximum indemnity which is allowed by law.

## **9.0 Risk Management**

- 9.1 None identified other than in respect of Dial-a-Ride and Community Transport (Paragraph 10.5 below).

Each of these organisations has requested that two Members be appointed. At present, Councillors Cannon and Thwaite are carrying the burden of four Councillors as the only two representatives, pending the outcome of a review by the Portfolio Holder for Prosperity. The additional workload may become too onerous and one or both Members may choose to resign from these two organisations.

## **10.0 Background and Options**

- 10.1 An Officer review of the schedule of outside organisations has been undertaken. As a consequence of that review, three organisations have been identified as not falling within the category of “outside organisation” and it would be more appropriate for Council to make appointments to these as part of the annual Committee appointments process. The organisations are as follows and each is managed/administered by Children’s Services. For this reason, they ought not to be regarded as outside organisations:

- Adoption Panel
- Cheshire Admissions Forum
- Fostering Panel

### **10.2 Adoption Panel**

The Adoption Panel considers in detail all aspects of a plan for a “Looked After” child to be adopted and makes a recommendation as to whether or not the child should be adopted. In addition, the Panel considers the suitability of any families who apply to become adopters, and whether or not to recommend that they are suitable to adopt; and finally, it considers the placement of any child with a particular adopter. The elected Member is a full member of the Panel. Under the performance objectives of the Panel, each member is asked to attend 75% of the meetings, which are held monthly, and in addition is asked to attend any training events and induction events that are held at least annually, and undergo an annual appraisal.

The role of the Adoption Panel and the appointment of elected Members are governed by the Adoption Agency Regulations 2005, Adoption and Children Act 2002.

The Adoption Panel comprises the following –

- Chairman
- Medical Adviser
- Agency Members
- Social Workers (2)

- Elected Member (1)
- Independent members (3)
- Additional members (2)

### 10.3 Cheshire Admissions Forum

There is a statutory duty on the local authority to have in place an Admissions Forum.

Section 85 of the School Standards and Framework Act 1998 requires all local authorities to establish an Admissions Forum. Forums provide a means by which admission authorities and other key parties can discuss the effectiveness of local admissions arrangements, consider how to deal with difficult admissions issues and advise all admissions authorities on ways in which their arrangements can be improved. Forums also have a key role in ensuring a fair admissions system that promotes social equality, does not disadvantage one child compared with another and is straightforward and easy for parents to understand.

The Forum core membership comprises 14 members as follows –

- Local Education Authority Members (2)
- Schools (Community) (3)
- Schools (Voluntary Controlled) (1)
- School (Foundation) (2)
- Schools (Voluntary Aided) (2)
- Schools (Academies) (1)
- Diocesan Board Church of England Representative (1)
- Roman Catholic Diocese Representative (1)
- Parent Governor Representative (1)

### 10.4 Fostering Panel

The Panel considers and advises on the suitability of persons who apply to be foster carers for children who are “looked after” by the local authority. It states what its recommendations are in respect of a particular child or children and clarifies whether the prospective carers are to be approved for certain ages or categories of children.

The Panel considers the continuing approval of foster carers following its annual carers’ review or other significant changes in the circumstances of carers and advises on any other matter relating to the fostering service.

The Panel holds monthly meetings which are held in private.

As with the Adoption Panel and the Cheshire Admissions Forum, the Fostering Panel is administered by Cheshire East Children’s Services and, as such, is not an outside organisation.

## 10.5 Appointments to Casual Vacancies

- Crewe and Nantwich Twinning Association (CANTA)

Councillor E Howell (Liberal Democrat) who was appointed to CANTA in April 2009 has resigned. The Sub-Committee recommends that the vacancy be filled as part of the appointments process for 2011-2012.

- Standing Advisory Council for Religious Education (SACRE)

On 15 November 2010, Cabinet accepted the Constitution Committee's recommendation that SACRE be re-designated as a Category 2 organisation to which the Constitution Committee would make all future appointments.

The current representatives are –

Councillor H Gaddum (appointed 15 November 2010 to replace  
Councillor M A Martin)  
Councillor S Jones  
Councillor F Keegan

Councillor Keegan has been unable to attend meetings of SACRE since September 2009 and has asked Councillor S Wilkinson to attend on his behalf. Following consultation with both Members, it is now proposed to regularise this arrangement by confirming Councillor S Wilkinson as the Council's representative on SACRE in place of Councillor Keegan.

- (1) Dial-a-Ride (DAR) and (2) Community Transport

Councillors D N Bebbington, D J Cannon and A Thwaite, were appointed to DAR and Community Transport in March 2009. At that time, it was understood that these two organisations were actually one organisation with two branches. However, following the appointments, it transpired that the organisations were in fact two separately operated and funded organisations operating in Cheshire East. Dial-a-Ride covers Crewe, Nantwich and Congleton; and Community Transport covers Macclesfield.

The organisations advised that they would each prefer to have two elected Members appointed to them. This was accepted by the Governance and Constitution Committee on 30 September 2009, at which time the Committee agreed to recommend to Cabinet that both schemes be re-designated as Category 1 on the basis that they were top-level strategic organisations which informed the Local Transport Plan. The Committee also commented that the two representatives on each organisation should comprise one Cabinet Member and one Local Member.

Councillor Bebbington has now resigned from Dial-a-Ride, and this leaves Councillors D J Cannon and A Thwaite as the only two representatives, both of whom are representing the Council on both Dial-a-Ride and Community Transport. Although Cabinet has yet to make a decision on

this matter, Councillor J Macrae, as the Portfolio Holder, is reviewing the situation. It is suggested, therefore, that no action be taken to fill the casual vacancy, pending the outcome of that review and to notify Members and the organisations accordingly.

#### 10.6 Casual Vacancies Procedure

On 9 March 2010, the former Governance and Constitution Committee approved a Procedure for Dealing with Casual Vacancies on outside organisations. This applied to all appointments not made by the Cabinet.

When a casual vacancy occurs between annual appointments, it is for the Committee (now the Constitution Committee) to approve replacements. The Committee meets bi-monthly and this can cause delays of two months or more. The following revised procedure follows the practice adopted for dealing with casual vacancies on Council Committees and avoids the need to seek the approval of the Constitution Committee each time a vacancy occurs.

The blue text indicates the changes proposed.

- (i) *When a place becomes vacant, the Democratic Services Manager, as the appropriate Officer, would be notified.*
- (ii) *The Group Whip of the appropriate political group would be invited to nominate a replacement from within the same group.*
- (iii) ***The replacement Councillor would take up the vacancy; the outside organisation would be notified of the change; the outside bodies list would be updated on the website; and the Constitution Committee would be informed at the next available meeting.***
- (iv) *In cases where the relevant political group is unable to appoint to a particular organisation (or chooses not to appoint, for whatever reason), the Democratic Services Manager would be notified and each of the remaining political groups would then be invited to submit a nomination. **Where only one nomination is received for one vacancy, the Councillor would be “slotted in”. Where there is competition for places, the matter** would be considered by the Constitution Committee at the next available meeting.*

The Committee is asked to adopt the revised Casual Vacancies Procedure for application in respect of Category 2 organisations.

The Cabinet does not have a procedure for dealing with casual vacancies. When a casual vacancy occurs, this is usually dealt with by the appropriate Portfolio Holder, each of whom has the power to appoint to outside bodies falling within their remit. The Committee is invited to

commend the procedure, appropriately amended, to Cabinet for application to Category 1 organisations.

#### 10.7 Procedure for Adding Organisations to the Approved List

The decision as to whether an outside organisation should be included on either of the approved schedules (Category 1 or 2) is made in accordance with the appointments criteria approved by the former Governance and Constitution Committee at its meeting held on 9 March 2009. The criteria are intended to form the basis of an objective, rational and open appointments process.

During the transitional year, it was the role of the Task Group (Outside Organisations) (set up by the former Governance and Constitution Committee in July 2008) to consider new additions to the approved list and make recommendations to the Committee, having applied the approved criteria in each case. An informal part of that process was consultation with the shadow Cabinet. Prior to submission of the final list to the Committee, Cabinet Members selected those organisations which they considered should be reserved to the Cabinet for appointment. The list of outside organisations was then divided into two separate lists: one for appointment by Cabinet and the other for appointment by the Committee.

Since 1 April 2009, there have been a number of new requests, by or on behalf of outside organisations, for Council representation and whilst the criteria have not been specifically applied on these occasions, Legal Services has considered the legal implications associated with each request. Most of the requests have been received from Members. Where a request came from a Cabinet Member, it was treated as a Category 1 organisation and Cabinet dealt with the appointment(s). Where requests were received from other Members, these were regarded as Category 2 and the Constitution Committee made the appointment(s).

There is no formal procedure enabling the Outside Organisations Sub-Committee (as successor to the Task Group) to consider each new request for representation. It is suggested that, in the interests of clarity and consistency, the following procedure be adopted:

- (i) All new requests for representation on an outside organisation would be considered by the Sub-Committee which would apply the appointments criteria to decide whether or not the organisation should be added to the list of approved organisations.
- (ii) If the organisation is considered appropriate for inclusion, the Sub-Committee would then decide which category is the most appropriate, again by applying the approved criteria. (Category 1 comprises those organisations which are regarded as top level strategic bodies to which the Cabinet appoints and Category 2 comprises those to which the Constitution Committee appoints.)

- (iii) If the Sub-Committee determines that it should be a Category 1 organisation, the matter would be referred to the Cabinet which would (a) decide whether it wished to add the organisation to the list of Category 1 organisations; (b) if so, determine the Council's representation on the organisation as appropriate; or (c) if not, refer the organisation to the Constitution Committee to consider for inclusion as a Category 2, or for rejection.
- (iv) If the Sub-Committee determines that it should be a Category 2 organisation, the Sub-Committee would recommend the organisation's inclusion on that list of approved organisations and would submit nominations for consideration by the Constitution Committee.

#### 10.8 Holmes Chapel Partnership

Holmes Chapel Partnership has been established to enable the Holmes Chapel community to create an improved environment for those who live and work in the area. It is independent of any political party, religious organisation or local council. The Partnership has requested that one representative of Cheshire East Council be appointed; the appointee would become a member of the Executive Committee.

The Sub-Committee recommends its inclusion on the Category 2 list of outside organisations and recommends the appointment of a local Member.

#### 10.9 Guidance for Members Appointed to Outside Organisations

The Sub-Committee (and the former Task Group) recognised the need for a guidance document for Members appointed to outside organisations. Members have previously considered a number of drafts, the last one of which was edited by Legal Services and provided for Members at a training session held on 16 September 2010. Legal Services has reviewed the document and is satisfied that it represents an appropriate guidance for Members.

The revised document has now been issued to all Members.

#### 10.10 Appointments Process – 2011-2012

Appointments for 2011-2012 will be made by the Constitution Committee at its meeting to be held on 2 June 2011. The Sub-Committee is meeting in April to review the current list of Category 2 organisations.

Following the establishment of the political proportionality of the Council after the elections on 5 May, and the appointment of Committees and Sub-Committees at Annual Council on 18 May 2011, a meeting of the



Sub-Committee will be held at the earliest opportunity to enable recommendations to be made to the Constitution Committee.

#### Category 1 Organisations

Cabinet will be asked to make appointments to the Category 1 organisations at its meeting to be held on 6 June 2011.

### **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer. There are no specific background documents.

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