

# CHESHIRE EAST

## Governance and Constitution Committee

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**Date of meeting:** 14 July 2008  
**Report of:** Governance Group  
**Title:** Appointments to outside bodies

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### **1.0 Purpose of Report**

- 1.1 To highlight the issues relating to appointments to outside bodies by Cheshire East Council from 1 April 2009 and agree a process for dealing with them.

### **2.0 Decisions Required**

- 2.1 To agree option 4 (set out in paragraph 9.1) as the preferred approach to appointments to outside bodies.
- 2.2 To agree the actions outlined in paragraph 9.2
- 2.3 To agree that the remit of the working party includes attendance at annual conferences, bodies of the nature outlined in paragraph 7.2, 7.3 and 7.5 and the appointment of both officers and members.
- 2.4 To agree that the appointment of members to outside bodies by the shadow authority be addressed as part of the work outlined in this report.

### **3.0 Financial Implications for Transition Costs**

- 3.1 None

### **4.0 Financial Implications 2009/10 and beyond**

- 4.1 None

### **5.0 Legal Implications**

- 5.1. The appointment of representatives to outside bodies can have implications for appointees, particularly those appointed as trustees or company directors. It is essential that members are made aware of their roles within outside bodies and their legal responsibilities. A structured approach to appointments, following good practice outlined in Appendix 2 will limit potential risk for both elected members and the new authority. Appendix 2 includes reference to indemnities for members which are addressed in a separate report on this agenda.

- 5.2. Certain steps may be required to exit from an outside body – for example, resignation by written notice in the case of directors. Alternatively, to ensure continued representation by the new authority, changes to a body's governance arrangements may be required. In case of the latter, sufficient notice must be given to these bodies to enable them to make the necessary changes within their decision making structure.

## **6.0 Risk Assessment**

- 6.1 There are currently a very large number of appointments to outside bodies spread across the Cheshire authorities, which the new authority will be unable to support unless steps are taken to rationalise and prioritise the approach taken.
- 6.2. The new authority may be unable to participate in key outside bodies if it fails to identify the bodies themselves and the steps required to secure future representation, such as changes to constitutional arrangements for those bodies to take account of LGR.
- 6.3. Failure to properly support members and officers appointed to outside bodies may leave them unclear as to their roles and responsibilities and diminish the potential benefits to the new authority which may be derived from effective partnership working.

## **7.0 Background**

- 7.1. All Cheshire authorities make appointments to outside bodies. The reasons for doing so are as varied as the nature of those outside bodies. Appointments are made, for example, for strategic reasons, to influence a body where the council is a major funder, or to represent the views of the electorate at ward level. In a national context, appointments demonstrate partnership working and engagement with the local community, which is likely to be a key feature of the new Comprehensive Area Assessment framework.
- 7.2. Examples of outside bodies and the number of appointments currently made by existing authorities are set out at Appendix 1. Some outside bodies are entirely independent of the local authority. Others may have been set up by an authority, for example to manage a public facility such as a leisure centre, or to provide public services, such as a housing trust. Some are examples of public/private sector partnerships set up and supported by a local authority but intended to engage various sectors of the community – bodies which regulate themselves but for which an authority acts as Accountable Body. Nominees are usually members but may also include officers.
- 7.3. There are some bodies of which existing councils (rather than individuals) are trustees. There are also joint working arrangements, such as shared use agreements whereby facilities are shared with local schools. Whilst not strictly outside bodies, it is recommended that they

are included in the appointments process to ensure they are not otherwise overlooked.

- 7.4. As well as reviewing the process of making appointments to outside bodies, changes which are required to ensure that the new authority can continue its involvement should be identified, such as amendments to governance arrangements, or to exit from the organisation.
- 7.5. Finally, members and officers attend various conferences throughout the municipal year – for example the LGA Annual Conference. It is suggested that attendance at conferences is included within the remit to ensure that maximum benefit is derived to officers, members and the new authority.
- 7.6. The Performance and Capacity Block is looking at Local Strategic Partnerships, to which representatives of some outside bodies are appointed and it is recommended that a link is established with that group to ensure consistency.

## **8.0 Future appointments**

- 8.1. To maximise future benefit to the community and the new authority, it is therefore recommended that it;
  - (a) develops a process for making appointments in the future which is rational, manageable and is compatible with corporate objectives;
  - (b) identifies legal and other issues to be addressed which will enable representation on key outside bodies to continue.
- 8.2. It would also seem opportune to improve on current practice over the next 12 months to develop a more business like approach. Examples of what may encompass good practice are set out at Appendix 2.
- 8.3. Representations have been made to the Department of Communities and Local Government for regulations to allow existing appointees to continue as representatives of the new authority, post 1 April 2009, to facilitate the transition. Any update will be provided at the meeting.

## **9.0 Options for future appointments**

- 9.1. There are a number of options open to the new authority;

### Option 1 – continue with existing appointments

The new authority to re-appoint in 2009 to all existing outside bodies. This is the simplest option but in view of the number of current appointments against the overall reduction in the number of councillors for across Cheshire, it would seem unworkable.

### Option 2 – existing authorities to rationalise existing appointments prior to 2009

Existing authorities to undertake a review of current appointments with a view to rationalising them as far as possible, working together to identify duplication. The new authority then re-appoints to those bodies remaining on the list in 2009. Identifying criteria in advance as a rationale for appointments would assist this process. A review of appointments could be progressed after 2009, depending on the priorities of the new authority.

#### Option 3 – officer led review of appointments process

Officer team set up to address the issues set out above to develop best practice. Work programme drawn up with necessary approvals sought from the appropriate committee. Main drawback is lack of member involvement during development of process and possible lack of ownership.

#### Option 4 – member led review of appointments process

Advisory or similar committee based on a small number of members set up as a working party to devise a work programme and develop recommendations to deal with appointments and implement best practice. A key advantage is ownership at member level due to involvement in process.

- 9.2. The work involved should not be underestimated and if options (3) or (4) are preferred, to assist the process it is recommended also that

(a) existing authorities be requested to prioritise current appointments for review as;

- (1) Key strategic appointments which an existing authority considers essential to continue; or
- (2) Appointments which are important to an existing authority but not crucial; or
- (3) Those not falling into (a) or (b)

(b) existing authorities be requested to take all necessary steps to enable the new authority to make appointments to those falling within category (1) with effect from 1 April 2009. This may include, for example, changes to the constitution of that body or seeking consent to changes from the Charities Commission.

(c) existing authorities be requested to notify outside bodies falling with categories (2) and (3) that appointments are likely to cease with effect from 1 April 2009, and to take all necessary steps to give effect to cessation, for example the service of notices of resignation.

## **10.0 Appointments by the Shadow Authority**

- 10.1. The shadow authority may receive requests to appoint representatives to outside bodies over the next 9 months as part of the transition process. It is recommended that such appointments are dealt with as part of the work outlined in this report. If appointments are made by the shadow authority, then the role and responsibilities of the representative are clarified at the time of the

appointment, to both the shadow authority and the outside body. It is also recommended that the continuation of the appointment after 1 April 2009 is dealt with as part of the process outlined in this report.

#### **11.0 Reason for Recommendations**

To put in place an effective and manageable process for appointments to outside bodies from 1 April 2009.

##### ***For further information:***

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##### ***Background Documents:***

*Documents are available for inspection at:*

*Shadow Council Support Office*

*Town Hall*

*Macclesfield*

*SK10 1DX*

## Appendix 1

In this paper reference to outside bodies includes;

Charities/trusts – e.g. local hospice  
Companies – e.g. Visit Chester and Cheshire  
Voluntary organisations – e.g. CAB, local community centre association  
Unincorporated local government organisations – e.g. CWHIC  
Statutory bodies and partnerships – e.g. Community safety partnership, North West Regional Assembly  
Strategic lobbying organisations – e.g. LGA

It does not include bodies to which a council is required by statute to make appointments, such as LEA appointed governors to schools.

### Details of current appointments to outside bodies by existing Cheshire authorities

| Authority                                 | No. of elected members | No. of outside bodies | No. of appointed representatives |
|---|------------------------|-----------------------|----------------------------------|
| Chester City Council                      | 60                     | 85                    | 199                              |
| Cheshire County Council                   | 51                     | 225                   | 530                              |
| Congleton Borough Council                 | 48                     | 41                    | 78                               |
| Crewe and Nantwich Borough Council        | 56                     | 75                    | To be confirmed                  |
| Ellesmere Port and Neston Borough Council | 43                     | 59                    | 148                              |
| Macclesfield Borough Council              | 60                     | 58                    | 129                              |
| Vale Royal Borough Council                | 57                     | 44                    | 79                               |

## **Appendix 2**

The following identifies good practice in making appointments to outside bodies;

- (a) there are agreed criteria to justify appointments, for example in terms of how they work towards corporate objectives;
- (b) the role of each representative is clearly identified so that councillors are fully aware of their legal responsibilities;
- (c) the expectations of each council in respect of its representatives are clearly set out along with the means for ensuring accountability;
- (d) clear information on each outside body is collated and kept up to date by each authority;
- (e) there is a manageable process for making appointments, for example making use of an advisory or appointments panel;
- (f) relevant guidance is issued to representatives on roles and responsibilities, allowances, insurance and indemnities, code of conduct, confidentiality etc.