

CHESHIRE EAST

GOVERNANCE AND CONSTITUTION COMMITTEE

Date of meeting: 9th March 2009

Report of: Task Group – Outside Organisations

Title: Recommended Procedure for Making Appointments to Outside Organisations

1. Summary of Report

At its meeting held on 14th July 2008, the Governance and Constitution Committee set up a Task Group *“To devise a work programme and develop recommendations to deal with appointments [to outside organisations] and implement best practice.”*

The Task Group comprised Councillors R Cartlidge, S Jones, A Ranfield, P Whitely and R Walker. Councillor S Jones was elected Chair at its first meeting.

The Group has now formulated a procedure for making appointments to outside organisations.

This report -

- (a) reiterates the criteria adopted by the Committee in respect of making appointments to outside organisations;
- (b) recommends the addition of a criterion where an organisation is ward-specific;
- (c) gives details of the recommended procedure;
- (d) invites the Committee to approve the nominations to the schedule of organisations listed, which fall within the remit of the Governance and Constitution Committee (Categories 2, 3 and 4); and
- (e) gives guidance on proportionality and other issues to be taken into account when making appointments.

2. Summary of Decision

The Committee is asked to approve the procedure for making appointments to outside organisations, as detailed in paragraph 8 of the report, subject to any amendments made at the meeting, with effect from 1st April 2009.

3. Criteria

- 3.1** At its meeting held on 6th October 2008, the Governance and Constitution Committee adopted the following criteria for making appointments to outside organisations.

(a) The Appointment is a Statutory Requirement

There will be a limited number of bodies to which the authority is required to appoint but statutory requirement should be included as a criterion. Examples include the Police Authority and Fire Authority.

(b) Appointment Allows the Authority to Influence Policy at National or Regional Level

This will apply to those organisations which give the authority a voice at national or regional level and enables it to influence high-level policy decisions. Examples will include the Local Government Association, 4NW and the North-West Employers Organisation.

(c) Appointment Assists the Authority to Deliver its Strategic Objectives and Priorities

This is a key part of any appointment system, where it can be demonstrated that the appointment will make a direct or significant contribution to the authority's strategic objectives, in particular the Corporate Plan.

(d) Appointment is to an Organisation which Receives Major Funding from the Authority or Provides Key Public Services

Representation will ensure that the organisation uses its funding properly and develops in a way which the authority considers appropriate.

Those organisations which provide key public services, for example Housing Trusts, are often created by a local authority which reserves the right to place Members on its Board.

3.2 Additional criterion for making appointment

The Task Group recommends that the following criterion be added to the list of criteria for making appointments –

Where an organisation is ward-specific, the Member appointed should be the appropriate Ward Member.

3.3 Criterion for Declining to make Appointment

In rare cases, it may not be appropriate to appoint to an outside organisation; for example, where there are significant cost or resource implications for the Authority when balanced against the benefits. These will be determined as and when the situation arises.

4. Issues for Consideration in Making Appointments

In addition to adopting the approved criteria, the Task Group considers that the following should be taken into account -

○ Political Proportionality

When making appointments to outside organisations, there is no requirement to adopt the rules of proportionality, but there are some organisations where it is appropriate for the leading political group to take the places. These will, for the most part, be those organisations identified as Category 1.

The Task Group recommends that political proportionality be adopted as a starting point only. The political proportionality for Cheshire East Council has been established as follows –

Conservative	59 Council seats	72.84%
Liberal Democrats	12 seats	14.82%
Labour	6 seats	7.40%
Independents	<u>4 seats</u>	<u>4.94%</u>
	81 seats	100.00%

The Category 1 schedule contains 97 places; the Conservative Group has taken 79 of those.

There are a total of 124 places identified on the remaining schedules and if the rules of political proportionality were strictly observed this would result in the following. It should be noted that nominations for some organisations exceed the places available whilst there are three organisations where no nominations have been made.

Group	Politically Proportionate	Nominations Received
Conservative	90	81
Lib Dems	19	23
Labour	9	12
Independents	6	7
Total	124	123

- **Continuity/Members' Interests**

Continuity of representation can be important to outside organisations. Even where the term of office is 12 months only, the representative can build up expertise and experience which can be a loss to that organisation if a new representative is appointed after expiry of the term of office. For this reason, it is suggested that, where possible, and provided the representative is willing to continue to serve, consideration be given to re-appointing the same Member, if appropriate. This could depend on, for example, where elections may change the political balance or it may be appropriate to provide opportunities for newly-elected councillors to serve on organisations which reflect their interests.

- **Term of Office**

It is suggested that the term of office for each Councillor should, in general, be commensurate with the requirements of the organisation. However, it is suggested that this first tranche of appointments terminate in 2011.

- **Appointments Made in Accordance with Criterion 3.1 (d) Above**

Members will need to consider, when being appointed, that in taking up a formal position within an incorporated body - as director or trustee – the Member will be under a legal duty to act in the best interests of that outside body, notwithstanding the fact that s/he is there as a representative of the Authority. That duty will override a Member's duties to the Authority or the Council-tax payers it serves. It is also worth noting that where a matter is raised by the outside organisation relating to its relationship with the Authority, it is likely to give rise to a conflict of interest for the Member representative who will usually be required to absent him/herself from the meeting during the discussion. A dual-mandated role may therefore be problematic and out-weigh any perceived benefits for either the organisation or the authority.

5. Monitoring Effectiveness of Representation

Reporting Back

An important part of representation should include “feeding back” to the Council periodically (possibly once a year) by the representative. If there is no report-back mechanism, it inhibits the Council's ability to monitor the work of the organisation and to determine its continued appropriateness to the Council's aims.

Review by Organisation

As part of any review, it is important that the outside organisations be given the opportunity to comment on the effectiveness of Borough Council representation. Each organisation could be asked to complete an annual survey form indicating not only the attendance rate, but also the general contribution by the Council's representative.

Workload of Individual Members

The Task Group recognises that appointments are a matter for each Political Group within their proportional allocation. However, the Task Group is concerned that a number of Members have accepted a very wide range of appointments and may find it difficult to cover the workload involved. Equally, there are many Members who have no places on outside organisations, or only one or two appointments. In order to ensure that the Council's representatives are able to attend meetings of outside organisations regularly, and that a wider range of Members should progressively become more involved in this area of activity, the Committee is recommended to keep the position carefully under review.

6. Protocol for Dealing with Casual Vacancies

The Task Group recommends the following procedure for dealing with casual vacancies in the event of appointments becoming vacant between annual appointments -

- (i) When an appointment becomes vacant (between annual appointments), the Head of Democratic Services, as the appropriate Officer, would be notified.
- (ii) The Group Whip of the appropriate political group would be invited to nominate from within the same group.
- (ii) A target date for notification of the name of a representative, would be agreed.
- (iii) The nomination would be submitted to the next available Governance and Constitution Committee for approval.
- (iv) In cases where political groups are unable to appoint to a particular organisation (or choose not to appoint, for whatever reason), the Head of Democratic Services would be notified by an agreed date. Each of the remaining political groups could then be invited to submit a nomination which would be considered by the Governance and Constitution Committee at its next available meeting.

7. Appointments/Recommended Procedure

The Task Group has taken into account the criteria agreed by the Governance and Constitution Committee, and has applied these to the schedules of outside organisations.

The political Group Whips submitted nominations which were considered by the Task Group at its February meetings. The attached schedules represent the following –

Category 1 These are top-level strategic organisations at national, regional and local level; for example, Fire Authority, Primary Care Trust, Police Authority.

The Cabinet has already decided that it will reserve to itself appointments to these organisations.

Category 2 These are appointments which were key to the constituent authorities (Cheshire County Council, Congleton, Crewe and Nantwich, and Macclesfield Borough Councils) and were considered to be essential after 31st March 2009.

Category 3 These are organisations which the constituent authorities considered to be worthwhile but were not crucial.

Category 4 Those not falling within categories 1-3

8. Categories 2, 3 and 4 Organisations

The Committee's attention is drawn to the following specific matters, on which a decision is required -

- **62 (Cat 2) Community Transport ("Dial-a-Ride") [3 places]**

The Conservative Group has nominated 3 and the Liberal Democrat Group has nominated 1.

The Task Group recommends 2 Conservatives and 1 Lib Dem.

- **70 (Cat 2) King's School, Macclesfield [4 places]**

The Conservative Group has nominated 4 and has declined to reduce its nominations. The Liberal Democrat Group has nominated 1.

The Task Group recommends 3 Conservatives and 1 Lib Dem.

• **93 (Cat 2) Weaver Valley Regional Park [2 places]**

The Conservative Group has nominated 2 and the Labour Group has nominated 1.

• **99 (Cat 3) Alexandra Soccer and Community Association (Trust) [1 place]**

The Conservative Group has nominated 2 and the Labour Group has nominated 1.

• **116 (Cat 3) Middlewich Market Town Health Check Initiative – Vision Partnership**

The Independent Group is of the view that this organisation is similar in nature to the Alsager Partnership (No. 44); for this reason it should be transferred to the Category 2 schedule and the appropriate Portfolio Holder should be the representative.

The Task Group considered the request but remains of the view that it is a Category 3 organisation. Moreover, none of the political groups has made any nominations.

• **124 (Cat 3) Reserve Forces and Cadets Association [1 place]**

There is one vacancy. The Conservative Group has nominated 1 and the Labour Group has nominated 1. The Association will be asked, in due course, if it is willing to increase representation to 2. In the meantime, the Committee is required to reach a decision on the nomination to the one vacancy.

9. Recommendation

The Governance and Constitution Committee is recommended to RESOLVE -

- (a) That the additional criterion *“Where an organisation is ward-specific, the Member appointed should be the appropriate Ward Member”* be approved as part of the criteria to be adopted when making appointments to outside organisations.
- (b) That the appointments made by the Cabinet to the Category 1 organisations be noted;
- (d) That appointments be made to the Categories 2, 3 and 4 organisations as indicated on the attached schedules and subject to any amendments made at the meeting;

- (e) That, in general, appointments be made for a term of office which is commensurate with the requirements of the organisation;
- (f) That appointments to outside organisations be reviewed on an annual basis;
- (g) That, notwithstanding (e) and (f) above, the term of office for this first tranche of appointments terminate in May 2011 to coincide with the elections;
- (h) That Members' interests and expertise, together with the rules of proportionality be taken into consideration when making appointments;
- (j) That, in view of the special nature of Trusteeships, Members who are to be appointed are briefed on the roles, responsibilities and liabilities in advance of taking up appointment;
- (k) That, if practicable, a training day/session be held for Members, prior to taking up appointment;
- (l) That Members appointed to outside organisations be required to report, periodically, on the activities of the organisation to which they are appointed, as a means of monitoring the effectiveness of representation;
- (m) That the protocol for dealing with casual vacancies, identified in paragraph 6 be adopted; and
- (n) That the procedure for making appointments to outside organisations be adopted with effect from 1st April 2009.

9. Reasons for the Decision

- 9.1** It is important for Cheshire East Council to participate actively as a partner in the network of local organisations across the whole of the Cheshire East area.
- 9.2** The recommended procedure has been prepared following extensive work by the Task Group and is considered to be a satisfactory means of ensuring that appropriate appointments can be made by the Authority with effect from 1st April 2009.