

Corporate Policy Committee

Date of Meeting:	14 July 2022
Report Title:	Review of Appointments to Outside Organisations
Report of:	David Brown, Director of Governance and Compliance
Report Reference No:	CP/12/22-23
Ward(s) Affected:	All

1. Purpose of Report

- 1.1. To establish a mechanism to review the Council's outside organisation arrangements.

2. Executive Summary

- 2.1 This report proposes that the Constitution Working Group reviews the Council's outside organisations appointments.
- 2.2 It is proposed that, once the review has concluded, Constitution Working Group will make informal recommendations to the Committee, taking into account those matters referred to in this report and its appendices, with a view to the Committee making a formal decision upon the matter in advance of the May 2023 local elections, after which appointments to all outside organisations are made.

3. Recommendations:

Corporate Policy Committee is invited to agree that:

- 3.1 Constitution Working Group conducts a review of the Council's outside organisations appointments process.
- 3.2 Appendix 3 of the report be accepted as the terms of reference for the review.
- 3.3 Constitution Working Group to report its findings and recommendations back to Corporate Policy Committee.

4. Reasons for Recommendations

- 4.1** 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 process needs to be reviewed before the next local elections in May 2023, after which appointments to outside organisations will be made from the Council's new membership.

5. Other Options Considered

- 5.1.** The decision-making powers under which appointments were made previously have changed. Therefore, the process must be reviewed to ensure that, when making appointments, the new governance arrangements are applied and that no conflicts of interest arise.

6. Background

- 6.1.** The Council's appointments process was agreed in 2009 by the Governance and Constitution Committee, which appointed an Outside Organisations Task Group to review the extensive list of organisations inherited from the demised Cheshire authorities; and carry out the detailed work necessary to develop recommendations to deal with appointments to outside organisations.
- 6.2.** Appointments to outside organisations are made every four years. The term 'outside organisations' encapsulates a range of bodies which includes partnerships and wholly owned companies. Cheshire East Members also sit on a variety of other bodies by invitation or by virtue of their role, for example, the Chair and Vice Chair of the Adults and Health Committee sit on the Safeguarding Adults Board. These organisations and partnerships are listed in Appendix 1 and 2. There is a casual appointment process to deal with vacancies which arise within each four-year period.
- 6.3.** In view of the Council's move to a committee system of governance, resulting in the abolition of Cabinet and Constitution Committee, responsibility for its outside organisations arrangements falls to this Committee. As the next round of appointments are due to be made after the local elections in 2023, the process (including casual vacancies) will need to be reviewed to ensure that it reflects the Council's new ways of working.
- 6.4.** The number of organisations would also benefit from being reviewed as the list has grown over time; also on 1 July 2022 the Clinical Commissioning Groups will be replaced by Integrated Care Boards which will see new governance bodies created.

- 6.5.** Accordingly, this report recommends that the Constitution Working Group should conduct a review. It is proposed that the Constitution Working Group will report its findings back to the Corporate Policy Committee later in the year. The proposed terms of reference for the review are attached at Appendix 3, which the Members' Input Panel has helped formulate.
- 6.6** Upon appointment to an outside organisation, a Member's responsibilities and obligations will vary, dependent upon the type of organisation they have been appointed to. Guidance is available to Councillors regarding a Member's obligations and responsibilities, but this was published in 2012. It is proposed that the document be reviewed as part of this process. This is to ensure that key issues are addressed, and the document is updated in time for the next round of appointments in 2023.
- 6.7** It is important to establish the effectiveness and appropriateness of Member representation on outside organisations. It is proposed that Constitution Working Group be invited to consider whether appointees should be required to report back on the activities of the organisations to Council, and if so, to identify a suitable mechanism by which this can be achieved.
- 6.8** As an open and transparent Council, the Constitution Working Group will be invited to identify the appropriate method for publishing any remuneration received by Members from an outside organisation.
- 6.9** Members need to be protected when they are acting on behalf of their authority and are properly and lawfully pursuing the business of the authority. On 9th February 2016, Council resolved that Members and Officers be indemnified to the maximum extent permitted under the Local Authorities (Indemnities for Members and Officers) Order 2004 ('the 2004 Order'). This report recommends that the Constitution Working Group should consider whether indemnities for Members should be reviewed.

7. Consultation and Engagement

- 7.1.** To inform the review, contact will be made with the outside organisations on the current lists, and with any proposed new outside organisations, to obtain information relevant to the review. The organisations/Group Leaders/all Councillors will be consulted as to the added value of having a Council representative on the bodies concerned.
- 7.2.** The consultation will take place in Summer 2022; Constitution Working Group's recommendations to be submitted to Corporate Policy Committee later in the year.

8. Implications

8.1. Legal

8.1.1. 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 has resolved to put in place for elected Members the maximum indemnity which is allowed by law.

8.1.2. 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.

8.2. Finance

8.2.1. There are no direct financial implications.

8.3. Policy

8.3.1. There are no direct policy implications.

8.4. Equality

8.4.1. There are no direct equality implications.

8.5. Human Resources

8.5.1. There are no direct Human Resource implications.

8.6. Risk Management

8.6.1. 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.

8.7. Rural Communities

8.7.1. There are no direct implications for rural communities.

8.8. Children and Young People/Cared for Children

8.8.1. There are no direct implications for children and young people.

8.9. Public Health

8.9.1. There are no direct implications for public health.

8.10. Climate Change

- 8.10.1. Aims and objectives of the outside organisations should reflect the Council's commitment to becoming carbon neutral by 2025.

Access to Information	
Contact Officer:	Brian Reed Head of Democratic Services and Governance brian.reed@cheshireeast.gov.uk 01270 686 670
Appendices:	Appendix 1: List of organisations Appendix 2: Organisations with Cheshire East representation(s) Appendix 3: Draft Terms of Reference
Background Papers:	<p>Report to Governance and Constitution Committee 14 July 2008: Appointments to outside organisations Agenda for Governance & Constitution Committee on Monday, 14th July, 2008, 2.00 pm Cheshire East Council</p> <p>Report to Governance and Constitution Committee 9 March 2009: Recommended procedure for making appointments to outside organisations Agenda for Governance & Constitution Committee on Monday, 9th March, 2009, 2.00 pm Cheshire East Council</p> <p>Report to Cabinet 9th February 2016: Indemnities for Members and Officers Agenda for Cabinet on Tuesday, 9th February, 2016, 2.00 pm Cheshire East Council</p> <p>Report to Constitution Committee 15 July 2019: Appointments to Outside Organisations 2019 – 2023 Agenda for Constitution Committee on Monday, 15th July, 2019, 2.00 pm Cheshire East Council</p>