

# CHESHIRE EAST COUNCIL

## Constitution Committee

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**Date of Meeting:** 5<sup>th</sup> July 2012  
**Report of:** Borough Solicitor  
**Subject/Title:** Audlem Education Foundation

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### **1.0 Report Summary**

The report asks the Constitution Committee to consider the number of members appointed to the Audlem Education Foundation Awards Committee, and to review the responsible body for making those appointments in the light of Local Government Reorganisation changes since the Awards Committee was established.

### **2.0 Recommendation**

- 2.1 As requested by the Audlem Education Foundation (in paragraph 10.2 of this report), the Committee is recommended to agree the representation on the Audlem Education Foundation Awards Committee and any necessary changes to its Constitution arising from that decision.

### **3.0 Reasons for Recommendation**

- 3.1 The Awards Committee currently has a vacancy which needs to be filled. In addition, there have been a number of occasions on which the Committee has met and unfortunately been inquorate; for that reason an increase in the number of its core members has been requested in order to avoid this happening in the future.

### **4.0 Wards Affected**

- 4.1 Audlem.

### **5.0 Local Ward Members**

- 5.1 Councillor Rachel Bailey.

### **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.
- 8.2 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 bodies/select those bodies to which they are appointed.

## **9.0 Risk Management**

An inability to appoint members, and the inability of the Foundation to hold meetings that are quorate, could have an impact on the organisation and on the work of its charity.

## **10.0 Background and Options**

### **10.1 History of the Audlem Education Foundation Awards Committee**

The Clerk of the Audlem Education Foundation has asked for assistance in resolving a problem concerning the number of representatives on its board of Trustees.

The former Cheshire County Council was set up as a Trustee to the Foundation in 1973 and the Awards Committee was subsequently established with a membership of 5, which, at that time comprised:

- 3 from Cheshire County Council Education Committee
- 1 from Crewe and Nantwich Borough Council
- 1 from Audlem Parish Council

The last appointments made by the County Council were in 2006, for a 4 year period, and were noted as being 2 Conservative representatives and 1 Labour representative. None of the appointees were Councillors although they were noted as having a political connection and it was sometimes the practice in predecessor authorities to appoint people

who were local to the organisation and known or affiliated to the political group.

In 2010, and post Local Government Reorganisation, the Foundation asked Cheshire East Officers from the Legal and Democratic Services Sections for advice on amending the Awards Committee Constitution to take into account the demise of the Cheshire County and Crewe and Nantwich Councils. Advice was given that any change would need to be considered by this Committee and that the scheme might well then also need to be referred to the Charity Commission with an explanation of the reasons for change. No action was however taken at that time.

## **10.2 Current Members of the Awards Committee**

Councillor Rachel Bailey was appointed by Cheshire East Council in 2009 to fill the position previously appointed to by Crewe and Nantwich Borough Council, and she was then reappointed in 2011 for the period until 2011.

The current membership is as follows:

Cllr Rachel Bailey	Cheshire East Council (former Crewe and Nantwich Borough Council appointment)
Mr Smith	former Cheshire County Council appointment
Mrs R Foster	former Cheshire County Council appointment
1 vacancy (Mr F Goodwin deceased)	former Cheshire County Council appointment
Mr B Consterdine	Audlem Parish Council

When the Awards Committee last met in March 2012 the following resolution was made:

### ***RESOLVED:***

*A reply be sent to Democratic Services to forward the following requests to the Constitution Committee at their next meeting.*

- 1. For Mrs Helen Rounding to be considered to fill the vacancy on the Awards Committee.*
- 2. To request approval to appoint an additional member to the Awards Committee from 5 to 6 people and for Mr Peter Marshall to be considered, due to Cllr Bailey's evening commitments.*
- 3. The Committee wish to make reference for the following paragraphs of The Audlem Educational Foundation*

*Scheme made by the Secretary For Education and Science under Section 18 of The Charities Act 1960:*

*“Delegation*

*4. The Council may, with or without any restrictions or conditions as the Council shall think fit, delegate all or any of their powers under this Scheme to its Education Committee or to an Awards sub-Committee, the latter to be constituted in such manner as the Council may think fit.*

*General Power to make Rules*

*11. Within the limits prescribed by this Scheme, the Council shall have full power to make and alter rules for the management of the Foundation.”*

### **10.3 Amending the Charitable Scheme**

The Charitable Scheme governs the manner in which the Foundation’s Trustee is required to manage its assets and make awards, an Internal Memorandum (copy attached) explains how Cheshire County Council decided to comply with the scheme, including its procedures for appointing individuals to the Foundation’s Awards Committee.

As Cheshire East Council is the County Council’s successor it is now required to carry out the functions of the Trustee and so the Council may wish to amend the Constitution to reflect the latest position within Cheshire East.

If the Constitution is amended to name Cheshire East Borough Council rather than Cheshire County Council, the new version of the scheme would need to be referred to the Charities Commission for its approval along with an explanation of the reasons for change.

### **11.0 Access to Information**

The background reports can be inspected by contacting the report Author:

Contact Officer:	Cherry Foreman
Designation:	Democratic Services Officer
Tel:	01270 686463
E-mail:	<a href="mailto:cherry.foreman@cheshireeast.gov.uk">cherry.foreman@cheshireeast.gov.uk</a>