

Council Report

Ward(s) affected: All

Report of the Director of Resources

Author: John Armstrong

Tel: 01483 444102

Email: john.armstrong@guildford.gov.uk

Lead Councillor responsible: Matt Furniss

Tel: 07891 022206

Email: matt.furniss@guildford.gov.uk

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## **Councillor Appointments to External Organisations Working Group Final Report**

### **Executive Summary**

On 11 April 2017, the External Organisations Working Group submitted an interim report to full Council. The Council approved a number of recommendations (see **Appendix 1**) which sought to improve the process of appointing to external organisations<sup>1</sup>. Since then the Working Group has applied those new approaches to undertake a review of individual councillor appointments. This report sets out the final recommendations of the Working Group.

This report was considered by the Corporate Governance and Standards Committee at its meeting held on 15 June 2017. The Committee supports the working group's final recommendations.

### **Recommendation:**

- (1) That the final recommendations of the Councillor Appointments to External Organisations Working Group in respect of existing and proposed new appointments, as set out in **Appendix 2** to the report, be approved, subject to the proviso that should the Council agree to discontinue the appointment of a councillor to Abbot's Hospital (Trinity Hospital Governors) and the Royal Grammar School, the ex officio appointment of the Mayor as a trustee and governor/director to those bodies should continue.
- (2) That, in relation to those external organisations where the Council agrees to discontinue appointments, and where the term of office of the current appointees expires in 2018 or 2019, the Council agrees that such appointments should be allowed to run their course.
- (3) That in relation to those external organisations where the Council agrees to continue making appointments, and where the term of office of the current appointees expires in 2018 or 2019, the Council agrees that such appointments

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<sup>1</sup> Minute CO117, Councillor Appointments to External Organisations Working Group Interim Report, 11 April 2017.

should continue until 2019.

- (4) That the most appropriate councillor nominees for any contested appointments be appointed having due regard to the Councillor Profile form submissions.
- (5) That any contested nominations received in respect of Executive appointments, be referred to the next meeting of the Executive (29 August) for determination.
- (6) That the Council confirms that the Armed Forces Champion's role shall include the task of ex-officio trustee to the Sea Cadets (Guildford Unit).

Reason for Recommendation:

To ensure that the Council maintains and develops relationships with key local organisations and partners in the most mutually productive ways and in the best interests of local people.

## 1. Purpose of Report

1.1 The Working Group's recommendations contained in their interim report, which were approved by the Council on 11 April 2017 (see **Appendix 1**), sought to:

- improve and streamline the process of making appointments;
- make appointments more productive by matching the appointee and the role more effectively;
- strengthen the relationships built by the appointments process by extending the term of office of all appointments to four years with effect from 2019;
- improve safeguarding the interests of the council and the appointee by better understanding liabilities and indemnities; and
- revise the list of external organisations to which the Council appoints councillors in the future so that it better reflects the current priorities of the Council.

1.2 This report sets out the Working Group's final recommendations having applied the new methodologies already adopted by Council, which include (in **Appendix 2**) a list of those external organisations to which the Council should, in the view of the Working Group,

- (a) continue to appoint councillors,
- (b) commence the appointment of councillors, and
- (c) cease making appointments.

## 2. Strategic Priorities

2.1 There are no direct policy implications within this report. However, the Working Group has approached the review in consideration of the ways in which councillor appointments on external organisations can be supportive and relevant to specific policy objectives, delivery of services, and to the corporate priorities of the Council.

### **3. Background**

- 3.1 The Council appoints councillors to a number of local external organisations for which they undertake a range of governance or advisory roles. The Council's constitutional protocol<sup>2</sup> provides guidance to councillors undertaking such appointments.
- 3.2 On 10 May 2016, full Council resolved to establish a Working Group with the following terms of reference:
- (a) to engage with those external organisations to which the Council appoints representatives to discover what they look for from such appointments;
  - (b) to review the process for making appointments and, in relation to each organisation, whether the Council should continue to make such appointments; and
  - (c) to submit a report on their findings to the Corporate Governance and Standards Committee, for final recommendation to Council.
- 3.3 In October 2016, all Group Leaders were asked to nominate councillors to sit on the External Organisations Working Group. Three councillors were nominated as follows:
- Councillor Matt Furniss (Conservative Group) (chairman of the Working Group)
  - Councillor Angela Gunning (Labour Group)
  - Councillor Julia McShane (Liberal Democrat Group)
- 3.4 In November 2016, the Working Group was convened and a review of the process and engagement with external organisations commenced. An interim report was submitted to the Corporate Governance and Standards Committee on 30 March 2017 and to full Council on 11 April 2017, which set out details of the progress with the review, together with a number of initial recommendations.
- 3.5 The interim report set out recommendations which sought to improve the process of appointing councillors to relevant external organisations.
- 3.6 The responsibility for making appointments currently lies with the full Council, although constitutionally this is a 'local choice' function, that is to say, a function that may be exercised by either full Council or the Executive.
- 3.7 The recommendations set out in this final report, other than the formal nominations received, have been considered and approved by the Corporate Governance and Standards Committee at its meeting on 15 June 2017.

#### **The Working Group Review**

- 3.8 The interim report of the Working Group set out how the review had included research into similar reviews undertaken by other councils and consultation with

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<sup>2</sup> Guildford Borough Council Constitution, Part 5, pages 30-36, Protocol on appointments to external organisations, October 2016

external organisations, councillors and senior officers. This activity resulted in a number of recommendations (**Appendix 1**) aimed to improve the Council's process for appointing councillors to external organisations.

- 3.9 The Council has agreed that there shall be one councillor appointed to each organisation and one deputy. The role of deputy shall be to attend the meetings or events of the organisation where the appointed member is unable to attend. Where the role is formal and has voting rights such as that of Trustee, Director or Governor the deputy shall attend as an observer only and will relay and liaise with the appointee as appropriate.
- 3.10 The Council agreed that councillors would normally be appointed to such external organisations that supported the Council's corporate priorities; assisted in the delivery of our services and/or used Council facilities. Consequently, three lists of external organisations have been compiled by the Working Group (see **Appendix 2**), as follows:
- the first list comprises those organisations where the Working Group recommends the existing appointments should continue as they comply with the assessment criteria referred to above.
  - a second list recommends a number of possible new appointments that the Council may wish to consider.
  - the third list identifies those external organisations which the Working Group feels do not comply with the assessment criteria and that formal appointments by the Council should therefore discontinue. The Working Group advises that, as some of these external organisations operate from specific localities, it is appropriate for local ward councillors to involve themselves with those organisations without formal Council approval.
- 3.11 The Council has agreed that all appointments will run for a four-year term of office following Borough Council elections (see paragraph (4) of **Appendix 1**). This will allow more long lasting relationships to be developed and would provide a greater return on investment in any training undertaken by the organisations concerned. For this reason, it will be necessary to appoint or to reappoint, as appropriate, all appointments up until 2019. **Appendix 2** sets out details of when appointments will expire and which appointments should be renewed.
- 3.12 In the list of appointments in **Appendix 2** that are recommended **not** to be continued, there are a number of appointments where the term of office of the current appointees expires in 2018 or 2019. The Council will need to determine whether those councillor appointments should terminate immediately, or whether they should be allowed to run their course. Both the Working Group and Corporate Governance and Standards Committee have recommended that these terms of office should be allowed to run their course.
- 3.13 Similarly, in relation to those appointments in **Appendix 2** where it is recommended that they should continue and where the term of office of the current appointees expires in 2018 or 2019, it is suggested that those that are due to expire in 2018 should be extended to 2019 and those that will expire in 2019

should run their course until then, with the new Council elected in 2019 making fresh appointments for a four year term.

### **Council or Executive appointments**

- 3.14 As stated in paragraph 3.6 above, the responsibility for making appointments currently lies with the full Council, although this may be exercised either by full Council or the Executive. The list of appointments recommended to be continued and the list of proposed new appointments in **Appendix 2** have been divided into proposed full Council appointments and Executive appointments in the future. The Executive appointments, it is suggested, are those where the appointee is most likely to be a lead councillor. Any nominations received in respect of Executive appointments which are contested will be referred to the next meeting of the Executive (29 August) for determination.

### **Nominations and Appointments 2017**

- 3.15 In April 2017, the Council approved the introduction of 'person profiles' for each appointment in order to highlight and clarify the requirements of each role. A councillor would not be appointed unless there was full understanding and agreement between both parties of the requirements and commitments of the role. The 'person profile' agreed by Council has since been circulated to all of the external organisations to which the Council currently makes appointments and those new organisations to which, it is proposed, the Council should commence making appointments.
- 3.16 The completed 'person profile' forms were reviewed by the Council's legal team for comment. Those comments can be found on the lists of recommendations in the tables in **Appendix 2**.
- 3.17 The 'person profiles' completed by the organisations listed in **Appendix 2** have been circulated to all councillors for their consideration. Councillors expressing an interest in any appointment have been asked to complete a 'Councillor Profile' form in which they set out their relevant skills and experience in respect of the requirements of the role.
- 3.18 Following the Council's decision on which appointments are to continue/commence, the Democratic Services Manager, under authority agreed by full Council on 11 April 2017 (see paragraph (10) of **Appendix 1**), will confirm the uncontested appointments.
- 3.19 The Council will be asked to consider those appointments that are contested. Where any are contested, each nominee shall have the opportunity to make either a written or an oral personal statement to the meeting in support of their nomination before the vote is taken, with any oral statement taking no longer than three minutes (see paragraph (9) of **Appendix 1**). Completed Councillor Profile forms received, to date, in respect of those appointments that are contested can be found at **Appendix 3**. At the time the agenda for this meeting was published, the only contested appointment is in respect of the Access Group, Guildford, where Councillors Angela Goodwin and Mike Hurdle are the nominees.
- 3.20 Full details of all contested nominations received, including copies of completed Councillor profiles, will be included on the Order Paper for the Council meeting.

- 3.21 Councillors will recall that at the Selection Meeting on 9 May 2017, the Council agreed in principle to add the task of ex officio trustee to the Sea Cadets (Guildford Unit) to the Armed Forces Champion's role, subject to the outcome of the review of councillor appointments to external organisations. Officers have contacted the Sea Cadets, who have completed a person profile in respect of the ex officio trustee role, and they have confirmed that they have an indemnity policy provided by the Marine Society and Sea Cadets. The Council is now asked to confirm these arrangements.

#### **4. Consultations**

- 4.1 During the course of the review, the Working Group has consulted with:

- All external organisations to which the Council currently makes an appointment
- All councillors
- Senior officers
- Corporate Governance and Standards Committee

#### **5. Equality and Diversity Implications**

- 5.1 When making decisions and setting policies the Public Sector Equality Duty (Equality Act 2010) requires us:

- to have due regard for the need to eliminate or remove unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- to advance equality of opportunity between people who share a protected characteristic and those who do not;
- to foster good relations between people who share a protected characteristic and those who do not.

- 5.2 Equality Impact Assessment (EIA) screening has indicated a full EIA is not required in respect of this review. The screening document can be found at **Appendix 4**.

#### **6. Financial Implications**

- 6.1 There are no direct financial implications arising from this report, unless the Council considers that an appointment is so essential that it should choose to indemnify the appointee, where no indemnity is currently provided by the organisation. This has not been the case previously.

- 6.2 Indirectly, improved working relationships and communications with local organisations may lead to improved services for local people, efficiencies and cost savings.

#### **7. Legal Implications**

- 7.1 It is important that councillor appointees are aware of the legal implications of governance, especially where the role is that of trustee and/or director. Some organisations are 'unincorporated' which means an association has no separate

legal existence and remains for most purposes a collection of individuals. Any property or contracts would have to be held by individuals on behalf of the group, or any legal proceedings taken against the group would, in reality be against the individuals themselves, making them personally liable, as liabilities are held by committee members. Whereas, an 'incorporated' organisation has limited personal liability, has a clear statutory framework and clear accountability both to members/shareholders and to a regulatory body. Incorporated charities are registered as companies with Companies House as well as the Charity Commission. If a charity is incorporated, the organisation, rather than individual trustees, is liable for debts and other costs.

- 7.2 It should be noted that even where charities are incorporated with limited liability, there are still financial risks to trustees if anything goes wrong. Trustee indemnity insurance is, therefore, essential to safeguard the interests of the councillor appointed to that role.
- 7.3 If unincorporated charities without insurance are to remain on the list of appointments, councillors should consult with the guidance published by the Charity Commission for England and Wales (CC49) with particular reference to page 15 paragraph 5.10. If the charity is not willing to provide insurance, the councillor would need to decide whether they wish to source their own policy before taking up the appointment.
- 7.4 The highest risk to personal liability is with charities that are not incorporated. Where a charity is incorporated, CC49 recommends consideration of securing Director insurance for a Trustee that is a Director. For example, to cover wrongful trading/wrongful acts as a Director. If incorporated charities without insurance remain on the list, again councillors should be made aware of Commission guidance before taking up the appointment.
- 7.5 It should also be noted that the Council currently does not provide indemnity insurance for any councillor appointments to external organisations. As set out in the decision taken by Council on 11 April 2017 (see paragraph (7) of **Appendix 1**), an appointment should not be made unless there is full understanding of the commitments and requirements of the role between all parties.

## **8. Human Resource Implications**

- 8.1 There are no human resource implications in respect of proposals contained in this report.

## **9. Summary of Options**

- 9.1 The Working Group has proposed that certain appointments should be retained, established, or terminated. The recommendations relating to each appointment have been arrived at following application of the methodologies agreed by Council in consideration of the Working Group's Interim Report. The Corporate Governance and Standards Committee supports the recommendations and the Council may choose to accept, modify, or reject them.

## 10. Conclusion

- 10.1 The Working Group has undertaken consultation and proposed a number of procedural changes along with the required constitutional modifications to support these. The Working Group has also reviewed the current list of External Organisations to which the Council makes appointments and has made recommendations as to whether these should continue, and also recommendations for the establishment of new appointments. It is expected that this work will result in a more efficient process and that the outcomes will help deliver the Council's corporate priorities.
- 10.2 There has not previously been a review of the process of councillor appointments to external organisations. The Council has agreed that there should be a further review of the process in 2020.

## 11. Background Papers

- [Councillor Appointments to External Organisations Working Group Interim Report, 11 April 2017.](#)
- [Guildford Borough Council Constitution, Part 5, pages 30-36, Protocol on appointments to external organisations, October 2016](#)
- [Charity Commission for England & Wales, Guidance Charities & Insurance \(CC49\)](#)
- [www.thirdsector.co.uk](http://www.thirdsector.co.uk) 'To indemnify trustees - or not to indemnify?'

## 12. Appendices

- Appendix 1: Interim recommendations of the Working Group adopted by full Council on 11 April 2017
- Appendix 2: Final recommendations of the Working Group (including external organisations recommended for removal, retention, or addition to the Council list)
- Appendix 3: Councillor Profile forms received in respect of those appointments which are contested
- Appendix 4: Equality Impact Assessment Screening document