

ABERDEEN CITY COUNCIL

COMMITTEE	COUNCIL
DATE	21 JUNE 2017
REPORT TITLE	APPOINTMENTS TO OUTSIDE BODIES, AMENDMENTS TO COMMITTEE PLACES AND COUNCIL DIARY
REPORT NUMBER	CG/17/078
LEAD OFFICER	FRASER BELL
REPORT AUTHOR	ALAN THOMSON

1. PURPOSE OF REPORT:-

The report seeks approval of the new policy on the appointment of Elected Members to Outside Bodies and accordingly makes recommendations for those bodies which require or request such appointments; the report also seeks approval of changes made to the composition of various committees and seeks a delegation to allow the Head of Legal and Democratic Services to set and amend the calendar of Council, Committees and Sub-Committees.

2. RECOMMENDATION(S)

The Council is recommended to:-

- (a) Approve the draft policy on the appointment of Elected Members to Outside Bodies as set out at Appendix 1 to the report;
- (b) Appoint Elected Members to the Outside Bodies listed in Appendix 3 to the report;
- (c) Agree to make no appointment to the Outside Bodies listed in Appendix 4 to the report and note that these will be removed from the Outside Bodies Register;
- (d) Instruct the Head of Legal and Democratic Services to ensure that the necessary formalities are addressed with respect to the resignations and nominations of Elected Members to the Outside Bodies listed in Appendices 3 and 4.
- (e) Instruct the Head of Legal and Democratic Services to keep the proposed policy and the Outside Bodies Register under review to

ensure that the levels of support the Council provides to these Outside Bodies through an Elected Member appointment is consistent with the policy.

- (f) Approve the changes to the compositions of the various committees as set out in paragraph 3.6.1 of the report.
- (g) Delegate authority to the Head of Legal and Democratic Services to set and amend the calendar of Council, Committee and Sub Committee meetings, following consultation with the Lord Provost and Council Leader and to update the Scheme of Delegation accordingly.
- (h) Note the various appointments approved under delegated authority since the Statutory Council meeting, contained within Appendix 5, and approve any outstanding appointments.

3. BACKGROUND

3.1 Review of Appointments to Outside Bodies

3.1.1 An Outside Body can be either a corporate or an unincorporated body which is not part of the Council's own governance structure but whose work helps Council to fulfil its own responsibilities and/or improving community life in Aberdeen. Aberdeen City Council provides support to a large number of Outside Bodies. This includes administrative or financial support, and/or Elected Member or senior officer representation. To ensure this support meets the Council's duty to secure best value, and that adequate resource is in place to support such appointments, the Council is reviewing accountability and governance arrangements with other organisations, as well as financial requirements where appropriate.

3.1.2 This exercise forms part of a wider review of the Council's governance framework to ensure that the Council is compliant with the Chartered Institute of Public Finance and Accountancy's (CIPFA) internationally recognised seven principles of good governance. A key aim of this review is to develop a clearer understanding of the relationships the Council has with all external bodies and organisations.

3.1.3 The purpose of this exercise was to review current practices on appointments of Elected Members to Outside Bodies and develop a policy which sets out:

- (i) the criteria on which Aberdeen City Council will appoint Elected Members to Outside Bodies; and
- (ii) guidance on Elected Members roles and responsibilities once appointed.

3.1.4 The proposed policy is set out at Appendix 1 to this report.

3.1.5 As a result of the exercise, a Register of Outside Bodies has been created which is to be maintained by the Head of Legal and Democratic Services.

The Register will contain all relevant information such as the Outside Bodies purpose, requirements, and key contacts. A corresponding Specific Exclusion Register will also be maintained by the Head of Legal and Democratic Services detailing those appointments where Elected Members are able to take advantage of a Specific Exclusion as detailed in the proposed policy.

3.2 Policy

- 3.2.1 The Policy was drafted after a benchmarking exercise. Other Local Authorities were contacted to ascertain what arrangements they have in place. Although Aberdeenshire have a similar questionnaire, as in the appendix contained within the proposed Policy, which was sent out to their Outside Bodies, they do not have a written policy on appointments. Orkney Islands Council and Shetland Islands Council, also do not have formal policies, however, they do have Council decisions on the types of organisations to which appointments will be recommended. Fife Council, Angus Council and Central Bedfordshire have policies.
- 3.2.2 This policy has been developed taking into account best practice elsewhere and significantly strengthened in line with recommendations from CIPFA, the Good Governance Institute (GGI) and Audit Scotland.

3.3 Arm's Length External Organisations

- 3.3.1 CIPFA recommended a preference to not appoint Elected Members to Arm's Length External Organisations (ALEOs), primarily due to the increased scope for conflicts of interests to arise. CIPFA has clarified that this recommendation is a preference, and accept that the Council may still wish to appoint Elected Members to ALEO boards due to the increased assurances and scrutiny gained by doing so. They have advised that the Council may wish to consider implementing their recommendation over a period of time and there is no expectation that the Council would simply stop appointing Elected Members with immediate effect to the six ALEOs that currently require Elected Members.
- 3.3.2 It is therefore recommended that Aberdeen City Council continue to appoint Elected Members to the six ALEOs for the timebeing in accordance with the proposed policy, but with a framework of safeguards built around these appointments. Additional safeguards include enhanced training to help ensure Elected Members have clarity on their responsibilities to the ALEO, conflict of interest risks and their potential liability.
- 3.3.3 The ALEOs were asked what skills and competencies they would like to see from appointed members. Some of the ALEOs have indicated what these expectations are, and these are detailed in Appendix 2. It is proposed that the Council give consideration to the skills and competencies being suggested by the ALEOs when considering appointees to those ALEOs.

3.4 Trusts

- 3.4.1 It is also recommended that Elected Members are appointed to active trusts, if a legal requirement of the trust's constitution. Appendix 3 details if the Council is obliged to appoint to an Outside Body or if it is discretionary. The trusts are being reviewed as part of a linked workstream of the Governance Review with a view to rationalising the number of dormant trusts which are doing little more than using funds (often more than their annual income) to meet statutory accounting costs. By amalgamating or winding up trusts, the Council can ensure that funds are disbursed for appropriate purposes, whether by a new trust or a third party charity to which funds are transferred.
- 3.4.2 Aberdeen City Council is the sole trustee for 8 charitable and non-charitable trusts, and is also asked to appoint Elected Members to around 15 charitable trusts. The Council is also responsible for over 70 non-charitable public trusts and funds. The Council's relationships with these trusts are currently under review with a view to reducing the amount of trusts that Aberdeen City Council support. Options being considered include winding up and amalgamating the trusts where appropriate, subject to resolution by the trustees which may include private individuals for some trusts. This is a time consuming process which indicatively will take at least two years to complete. If the Council decides that it no longer desires to support a trust, the process for resigning from the trust may be time consuming, and will involve agreement with the remaining trustees how the trust should continue. Elected Members acting as trustees may need to remain on the trust until the trust deed is amended.

3.5 Appointments

- 3.5.1 At the Statutory Council Meeting, held on the 17 May 2017, the Council was asked to make appointments to a small number of Outside Bodies, as these bodies required elected member participation prior to the meeting of Full Council on 21 June 2017. Some of these appointments were made under delegated authority following the meeting and these are detailed in Appendix 5. Elected Members are now asked to consider appointing to the remaining Outside Bodies listed in Appendix 3 in accordance with the proposed policy.
- 3.5.2 Questionnaires were sent to all existing Outside Bodies in January 2017, with several follow up reminders also being sent. A number of Outside Bodies replied to the request for information to advise that they did not require Elected Members, or that are no longer in operation. Several Outside Bodies failed to respond to the request for information, despite several attempts to contact them. It is recommended that these bodies are also removed from the register of Outside Bodies. If these bodies contact the Council looking for representation in the future, they will be asked to complete a questionnaire before they are considered for recommendation in accordance with any approved policy. A list of the bodies to be removed from the Register is contained within Appendix 4.
- 3.5.3 It is recommended that the policy is kept under regular review, and any appointments or nominations made in May and June 2017 are reviewed to ensure that they are still providing assurance to the Council, are not exposing

the Elected Members or Council to unacceptable risk and that they continue to provide best value. Elected Members appointed to Outside Bodies are encouraged to report to the Head of Legal and Democratic Services if they are of the view that the appointment is not of continuing benefit to the Council as set out in the proposed policy.

- 3.5.4 Most previous appointments ended automatically on the day of the election, as per section 61 of the Local Government (Scotland) Act 1973. Depending on the constitution of the Outside Body, there are various different processes for nominating or appointing to the Outside Body and for resignations of the previous office holders. These can range from a simple notification to more formal letters or documents. It is recommended that the Council delegates to the Head of Legal and Democratic Services to arrange for these administrative processes to be executed as required.

3.6 Committee Places

- 3.6.1 Following the Statutory Council meeting on 17 May 2017, the various groups within the Administration have swapped places on a number of committees, which needs to be ratified by the Council on the basis that the compositions are now different to what was previously agreed:

- Education and Children's Services Committee – Conservative now 4 places instead of 5. Independent Alliance now 2 places instead of 1
- Audit, Risk and Scrutiny Committee – Conservative now 5 places instead of 4. Independent Alliance now 1 place instead of 2
- Communities, Housing and Infrastructure Committee – Labour now 4 places instead of 3. Independent Alliance now 1 place instead of 2
- Finance, Policy and Resources Committee – Conservative now 5 places instead of 4. Independent Alliance now 1 place instead of 2
- Licensing Committee – Labour now 3 places instead of 4. Independent Alliance now 2 places instead of 1
- Planning Development Management Committee – Conservative now 4 places instead of 5. Independent Alliance now 2 places instead of 1
- Pensions Committee – Conservative now 2 places instead of 3. Independent Alliance now 1 place instead of no places.
- Aberdeen City Region Deal Joint Committee - Councillor Houghton to replace Councillor Boulton as a substantive member
- Community Planning Aberdeen Board - Councillor Graham to replace Councillor Sellar

3.7 Council, Committee and Sub Committee Meetings

- 3.7.1 The new Standing Orders were approved at the Council meeting in March 2017, and the revised Scheme of Delegated Powers is due to be presented to Council for approval towards the end of 2017. In the meantime, the Head of Legal and Democratic Services requires delegated authority to set and amend the calendar of Council, Committee and Sub Committee meetings, following consultation with the Lord Provost and Council Leader.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendations of this report.
- 4.2 The Council has a duty to secure best value, under section 1 of the Local Government (Scotland) Act 2003. As demands on the Council and Elected Members increase, it is essential that the Council keep all of its activities under review to ensure that it is securing best value for the residents of Aberdeen.
- 4.3 Each individual charitable trust has statutory financial obligations and Aberdeen City Council is responsible for the administration of some of these charitable trusts. The cost of administering these trusts is sometimes greater than their annual income. Rationalisation of the trusts will seek to minimise these costs and ensure trust money is best used for its intended purposes.

5. LEGAL IMPLICATIONS

- 5.1 Acceptance of the recommendations in the report is not considered to pose any legal risk to the Council and will ensure that the Council meets its statutory obligations. Depending on the constitution of the body, the appointment of a member to an Outside Body could be a statutory duty or a requirement of a trust deed. If the Council failed to appoint to these bodies, it could face enforcement action. However, it is more likely that an agreement could be obtained with remaining trustees to amend the trust deed and allow Elected Members to resign from trustee duties. The process may involve appointing Elected Members to the trust to allow them to participate in the discussions with the other trustees to amend the trust deed or wind up the trust.
- 5.3 Not all appointments are mandatory, however, and officers have endeavoured to identify the appointments or nominations that are mandatory or discretionary in Appendix 3.

6. MANAGEMENT OF RISK

- 6.1 The purpose of the policy and the review is to ensure resources are allocated to the right places, and risks to Elected Members are mitigated through

implementation a number of safeguards for Elected Members, around liability and insurance.

6.2 In recommending appointments or nominations of Elected Members to Outside Bodies, the Council needs to ensure:

- roles and responsibilities are understood;
- conflicting interests are effectively managed;
- risks are appropriately assessed and managed; and
- Elected Members' time is being effectively used.

6.3 The policy has been developed in light of the CIPFA Principles of Good Governance, in particular the following:

- Behaving with Integrity;
- Ensuring Openness and Stakeholder engagement;
- Defining outcomes;
- Determining the interventions necessary; and
- Managing risks and performance.

7. IMPACT SECTION

7.1 Once decisions have been made as to appointments or nominations to the bodies contained within the report, the relevant organisations will be contacted as to the representatives nominated or appointed.

7.2 Economy

There will be no impact on economy arising from the recommendations.

7.3 People

The report may be of interest to the public as it establishes memberships of outlined bodies in accordance with statute.

An Equality and Human Rights Impact Assessment is not required as the proposal does not disproportionately impact on persons with protected characteristics compared to persons without such characteristics.

7.4 Place

There will be no direct impact on the environment or the community arising from these recommendations. Many of the Outside Bodies do benefit the local environment, the local and wider community and make Aberdeen a better place to live and work.

7.5 Technology

There will be no impact on technology arising from the recommendations.

8. BACKGROUND PAPERS

<http://www.cipfa.org/policy-and-guidance/publications/d/delivering-good-governance-in-local-government-framework-2016-edition>

9. APPENDICES (if applicable)

Appendix 1 – Policy on Appointment of Elected Members to Outside Bodies

Appendix 2 – ALEO skills and competencies

Appendix 3 - Recommendations for Appointment

Appendix 4 – Outside Bodies recommended to be removed from Register

Appendix 5 – Outside Body appointments approved under delegated authority

10. REPORT AUTHOR DETAILS

Alan Thomson
Solicitor
alathomson@aberdeencity.gov.uk
01224 523249

HEAD OF SERVICE DETAILS

Fraser Bell
Head of Legal and Democratic Services
frbell@aberdeencity.gov.uk
01224 522084