

Agenda Item No:

Report to: Council Appointments Committee

Date of Meeting: 8 September 2008

Report Title: OUTSIDE BODIES

Report By: Jayne Butters
Borough Solicitor

Purpose of Report

To make recommendations to Council Appointments Committee concerning the nomination of members to sit on outside bodies.

Recommendation(s)

1. Committee nominates to outside bodies for the balance of the current municipal year.
2. Officers consult with outside bodies nominated to regarding the proposed way forward as set out in paragraphs 9 to 11 of the report.

Reasons for Recommendations

The report recommends significant changes to the interaction between councillors and outside bodies and it is important that organisations affected have the opportunity to comment on the proposals.

Background

Nomination of members to sit on outside bodies

1. Working Arrangements Group has been considering the position of members sitting on outside bodies, where their role is not representative of the Council but simply to serve the organisation in question.
2. Whilst members are able to make valuable contribution to the business of these organisations, they find that they are prevented in assisting the organisation when acting as a councillor in meetings of the Council. This is the result of the provisions of the Code of Conduct.

Code of Conduct

3. It is worthwhile setting out an extract of the Code, which defines a personal (registrable) interest in this particular context:-

Personal interests

- 8.(1) You have a personal interest in any business of your authority where either
 - a. it relates to or is likely to affect
 - i. any body of which you are member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - ii. any body
 - aa. exercising functions of a public nature;
 - bb. directed to charitable purposes; or
 - cc. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
4. The Code makes no distinction between membership of an outside body as the Council's representative, and as appointee or nominee, in as much as they are all personal interests, which are registrable and to be declared under Paragraph 9 of the Code of Conduct. Paragraph 9 does make a distinction between personal interests under Paragraph 8(1)a. and ii.aa and others, in that the personal interest has only to be declared if the member speaks on the matter. However, if the interest was also prejudicial, ie one affecting the financial position of the body or relating to the determining of any approval, consent, licence, permission or registration in relation to that body, the member would have to declare the prejudicial interest and leave the room or chamber.
5. There are very limited circumstances under the Code where a member, with a prejudicial interest may remain in the room or chamber, ie only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Commissioning

6. Another driver in the debate regarding nominations to outside organisations is the adoption of a system of the Council commissioning services, targeted at assisting in the delivery of Council priorities and services rather than grant funding individual organisations. The commission will be a legally enforceable contract and the opportunities for conflict of interest for councillors sitting on the outside organisation become greater. It is suggested, therefore, that this is another reason for moving away from nominating members to sit on the outside body and towards some other mechanism that delivers the advantages of member contact without the drawbacks of membership of the organisation.

Proposed way forward

7. The Council undertook a review of outside bodies in 2002/2003 and, following consultation with the organisations concerned, Cabinet resolved the following:-



- (1) the Council reverts to the previous system of nominating councillors to all voluntary bodies through Council Appointments Committee;
 - (2) this system is implemented from 2003 and that from 2004 nominations are for a two year period; and
 - (3) members be expected to report to the Members' Bulletin at least annually on their work with the particular voluntary body that they are involved in.
8. It is worth noting that since appointments or nominations were for a period of 2 years in June 2006, those appointments or nominations have now lapsed, provided members are not continuing as if nominated by the Council. Once membership has lapsed, there is no code of conduct interest as such, until re-appointment or nomination.
 9. As consultation was undertaken in 2002, outside organisations would have a legitimate expectation that they would be consulted again before there was any significant change to what was agreed in 2003. It is suggested, therefore, that further consultation be undertaken both with the outside bodies and the members who serve on the outside bodies in order to identify the benefits of direct member involvement.
 10. It may be that the benefits of direct member involvement in outside bodies can be achieved by other mechanisms, which do not carry the disadvantage of code of conduct interest. Even without the benefit of input and suggestions from organisations, it is possible to envisage that a mechanism whereby organisations are able to consult easily with appropriate members and officers on matters, might provide a solution, at least in part. This might involve the appropriate Lead Member attending a meeting of the organisation to answer questions and advise on Council policy. In this situation, the Lead Member is not conflicted out of debate on matters affecting the organisation, but can share with other Cabinet members the information he/she has gleaned as a result of the interaction with the organisation.
 11. Commissioning does not start until the beginning of the next financial year, and so, in order to be able to undertake a review and to identify and consider alternative options, it is suggested that Council Appointments Committee agree nominations for the remainder of the current financial year only, pending outcome of the review. However, once nominated to the outside body, the member will, as usual, be conflicted out of participation or even attendance during debate in the run up to the commissioning of services affecting the organisation concerned.

Wards Affected

None

Area(s) Affected

None

Policy Implications

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Report Template v12.5



Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	No
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	No
Organisational Consequences	Yes

Supporting Documents

Appendix A - Nominations to Outside Bodies.

Officer to Contact

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