

Cheltenham Borough Council

Cabinet – 23 July 2024

Nominations to Outside Bodies

Accountable member:

Councillor Rowena Hay, Leader of the Council

Accountable officer:

Gareth Edmundson, Chief Executive

Ward(s) affected:

None directly

Key Decision: No

Executive summary:

Following each Annual Council, and at other times when vacancies arise, the Leader/Cabinet takes the opportunity to nominate and, in limited cases, appoint persons to various roles within bodies external to the Council. The opportunity is also taken to nominate persons to other bodies such as Joint Committees and other bodies/groups.

Recommendations: That Cabinet:

1. **makes nominations to the outside bodies as set out in Appendix 3A and Appendix 3B in accordance with the following principles:**
 - **all nominations are made on the basis that the nominee is a representative of Cheltenham Borough Council insofar as that is compatible with any overriding legal duty to the outside body;**
 - **Cabinet / the Leader reserves the right at any time to withdraw/terminate a nomination which it has made; and**
 2. **notes the Cabinet Member responsibilities for the bodies/groups listed in Appendix 3C.**
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1. Implications

1.1 Financial, Property and Asset implications

There are no financial implications associated with this report.

Signed off by: Gemma Bell, gemma.bell@cheltenham.gov.uk

1.2 Legal implications

See body of the report.

Appointments/nominations to outside bodies are made in accordance with the Council Constitution. Guidance for Members appointed to outside bodies can be found at Part 5G of the Constitution.

Signed off by: Legal Services, legal.services@onelegal.org.uk

1.3 Environmental and climate change implications

There are no environmental implications to consider.

Signed off by: Maizy McCann, Climate Emergency Officer,
maizy.mccann@cheltenham.gov.uk,

Corporate Plan Priorities

Key Priority 4 – Ensuring everyone benefits from Cheltenham’s growth and prosperity

The nomination of representatives of Cheltenham Borough Council to the identified outside bodies helps develop valuable links between the council and community-based organisations supporting community priorities and community engagement.

Signed off by: Ann Wolstencroft, ann.wolstencroft@cheltenham.gov.uk

1.4 Equality, Diversity and Inclusion Implications

Please see the equality impact screening assessment in Appendix 2.

1.5 Performance management – monitoring and review

Members who represent the Council on unincorporated outside bodies are required to submit a written report to either full council or Cabinet, at least annually, on the activities of the organisation in accordance with Part 5G - Protocol for Appointments to Outside Bodies.

2 Background

- 2.1 The external bodies to which nominations/appointments are made comprise a variety of organisations and groups. Some are distinct legal entities, such as companies or Trusts, whilst others are unincorporated.
- 2.2 In most cases the authority decides who to nominate to the outside body concerned and it is then for that body to decide on whether to accept the nomination and make the appointment. There are some limited exceptions to this, such as Cheltenham Borough Homes, Gloucestershire Airport, and the Cheltenham Trust where the council has the right (by virtue of its interests in those companies) to make the nominations/appointments to the boards of directors.
- 2.3 Appointments are for two years.

3 Legal Context

- 3.1 Although nominations/appointments to outside bodies are made on the general basis that the nominee/appointee is the council's representative on the outside body, it is important to note that in some cases the overriding duty is to the outside body. For example, a company director has a primary duty of care towards the company and to act in the best interests of the company as a whole and a trustee must act in accordance with the trust deed and uphold the trust's objectives. In these circumstances members must apply independent judgement in respect of the body to which they are appointed.
- 3.2 The council is able to indemnify members (and officers) in the course of their activities on outside bodies provided they are acting within the scope of their authority as council representatives. Outside bodies, such as companies, that are legal entities in their own right must have their own appropriate insurance arrangements in place. It is important that members (and officers) clarify the position in each particular case.
- 3.3 Under the executive functions set out in part 3E of the Council's constitution, the Leader has the power to make nominations and appointments to outside bodies where they relate to an executive function or revoke such nominations and appointments provided there is group leader agreement. Where there is not group leader agreement, the decision is referred to Council.
- 3.4 The Leader has chosen to refer the decisions on appointment to Cabinet. The Leader has however the power in part 3E of the Constitution to appoint or nominate individuals to outside bodies in respect of Executive Functions and revoke or withdraw such appointment or nomination provided all group leaders agree.

4 Nomination/appointment of external persons

- 4.1 Historically the council has nominated/appointment external persons to some outside bodies. On 29 June 2006, Council specifically agreed that 'all nominees are elected Members of Cheltenham Borough Council unless there are exceptional reasons justifying the appointment

of a non-Member' for example there is a need for specialist knowledge, skills and experience and/or the lack of Member nomination to that body.

4.2 External persons are not, of course, subject to the Code of Members' Conduct, nor are they under any general obligation to act in the best interests of the council or the broader public interest. Also, they are not covered by the council's insurance. Whilst these factors do not prevent the nomination of external personas, they should be borne in mind when considering whether to make such nominations/appointments.

5 Reasons for recommendations

5.1 It is in the interests of the council to ensure representation on outside bodies.

6 Alternative options considered

6.1 None.

7 Consultation and feedback

7.1 The appendices have been circulated to group leaders.

8 Key risks

8.1 Please see Appendix 1.

Report author:

Bev Thomas, Democratic Services Team Leader, 01242 264 246

Appendices:

- i. Risk Assessment
- ii. Equality Impact Assessment – Screening
- iii. Appendices 3A-3C

Background information:

[Constitution Part 5G – Guidance for Councillors appointed to represent the Council on Outside Bodies](#)

Appendix 1: Risk Assessment

Risk ref	Risk description	Risk owner	Impact score (1-5)	Likelihood score (1-5)	Initial raw risk score (1 - 25)	Risk response	Controls / Mitigating actions	Control / Action owner	Deadline for controls/ actions
	If elected members are not aware of their roles and responsibilities, they may compromise their position	Monitoring Officer/Democratic Services Team Leader	3	2	6	accept	<p>Ensure members are aware of guidance set out in Part 5 G of the Constitution.</p> <p>Ensure members understand their role on the outside body and have a copy of relevant constitution or terms of reference of the body concerned</p>	Monitoring Officer/Democratic Services Team Leader	

Appendix 2: Equality Impact Assessment (Screening)

1. Identify the policy, project, function or service change

a. Person responsible for this Equality Impact Assessment

Officer responsible: Bev Thomas	Service Area: Democratic Services
Title: Democratic Services Team Leader	Date of assessment: 25 June 2024
Signature:	

b. Is this a policy, function, strategy, service change or project?

Function

c. Name of the policy, function, strategy, service change or project

Appointments to outside bodies.

Is this new or existing?

**Already exists
and is being
reviewed**

Please specify reason for change or development of policy, function, strategy, service change or project

Appointments are made after each Annual and Selection Council

d. What are the aims, objectives and intended outcomes and who is likely to benefit from it?

Aims:

Cheltenham Borough Council appoints people to sit on a number of outside bodies to represent the Council and to participate in their management and planning processes.

Outcomes:

The nomination of representatives of Cheltenham Borough Council to the identified outside bodies helps develop valuable links between the council and community-based organisations supporting community priorities and community engagement.

Benefits

To provide knowledge, skills and expertise which may not otherwise be available • To provide local accountability or democratic legitimacy through the appointment of an elected representative • To ensure that good relationships can be maintained with the body • To deliver a partnership project that

requires the input of other organisations or community groups • To protect the council's investment or assets, ie, if the council has provided grant funding or provides funding for service delivery • To lever in external funding which would not be available to the council on its own

e. What are the expected impacts?

Are there any aspects, including how it is delivered or accessed, that could have an impact on the lives of people, including employees and customers.

Yes

Do you expect the impacts to be positive or negative?

Positive

Please provide an explanation for your answer:

The nomination of representatives of Cheltenham Borough Council to the identified outside bodies helps develop valuable links between the council and community-based organisations supporting community priorities and community engagement

If your answer to question e identified potential positive or negative impacts, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

f. Identify next steps as appropriate

Stage Two required

No

Owner of Stage Two assessment

Completion date for Stage Two assessment