

Cheltenham Borough Council
Cabinet – 18 June 2013
Nominations to outside bodies
Third Sector Services
Report of the Leader

Accountable member	Leader, Councillor Steve Jordan
Accountable officer	Rosalind Reeves, Democratic Services Manager
Accountable scrutiny committee	All
Ward(s) affected	Not applicable
Key Decision	No
Executive summary	<p>Following each Selection Council, and at other times when vacancies arise, the Cabinet takes the opportunity to nominate and, in limited cases, appoint persons to various roles within bodies external to the Council.</p> <p>In June 2012, Councillor Barbara Driver was appointed as an observer on the Board of Third Sector Services. She has now been appointed to the board in her own right so there is a vacancy for an observer.</p> <p>Councillor Regan has put herself forward for the position and all Group Leaders are in agreement to her appointment.</p>
Recommendation	<p>Cabinet appoint Councillor Anne Regan as the observer on the Board of Third Sector Services in accordance with the following principles:</p> <ul style="list-style-type: none"> • all nominations are made on the basis that the nominee/appointee is a representative of Cheltenham Borough Council insofar as that is compatible with any overriding legal duty to the outside body; and • Cabinet reserves the right at any time to withdraw/terminate a nomination/appointment which it has made • Cabinet should refer a nomination/appointment to Council for determination where consensus on that nomination/appointment cannot be achieved between all the political groups on the Council

Financial implications	<p>There are no financial implications associated with this report.</p> <p>Contact officer: Paul Jones, Head of Finance paul.jones@cheltenham.gov.uk, 01242 775154</p>
Legal implications	<p>Two general powers are relevant to nomination/appointment to outside bodies, these being the 'Well Being' power found in the Local Government Act 2000 and the power of an authority to do anything conducive, incidental to or facilitative of the discharge of any of their functions found in the Local Government Act 1972.</p> <p>Updated guidance for Members appointed to outside bodies can be found at Part 5G of the Council Constitution.</p> <p>Contact officer: Peter Lewis, peter.lewis@tewkesbury.gov.uk,</p>
HR implications (including learning and organisational development)	<p>There are no HR implications associated with this report</p> <p>Contact officer: Julie McCarthy , Human Resources Manager West Julie.mccarthy@cheltenham.gov.uk, 01242 26 4355</p>
Key risks	<p>Members appointed should be aware of their roles and responsibilities.</p>
Corporate and community plan Implications	<p>Supports all the community priorities and supports community engagement.</p>

1. Background

- 1.1 The bodies to which nominations/appointments are made comprise a variety of organisations and groups. A traditional distinction can be drawn between incorporated and unincorporated bodies; the former being distinct legal entities such as companies, having a legal personality and a framework imposing obligations upon those who become involved by appointment; the latter being bodies which, albeit without formal legal foundation, play an important role in representing interests within the local community. Involvement in these unincorporated organisations will often carry few or no legal obligations on those appointed.
- 1.2 In the majority of cases Cheltenham Borough Council decides who to nominate to the body concerned and it is then for that body to decide on whether to accept the nomination and make the appointment.
- 1.3 In 2008, it was agreed that all nominations/appointments would be made by Cabinet with the proviso that if all political groups on the Council do not agree to a nomination the matter will be referred to full Council for determination. The reason for this change was that all of the bodies referred to related to Cabinet rather than Council functions and therefore it was deemed more appropriate for Cabinet to make the appointments and simplified the whole process.

2. Legal issues

- 2.1** The power of Cabinet to nominate/appoint is subject to the proviso that if all political groups on the Council cannot agree a particular nomination/appointment then it will be referred to full Council for determination.
- 2.2** Whilst nominations/appointments 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 many 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.
- 2.3** 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. Reasons for recommendations**
- 3.1** Appointments must be made in accordance with the Council's constitution.
- 4. Alternative options considered**
- 4.1** not applicable
- 5. Consultation and feedback**
- 5.1** Councillors were advised of the vacancy on 23 May 2013.
- 6. Performance management –monitoring and review**
- 6.1** Members are encouraged to give feedback on their attendance at meetings of outside bodies and communicate any relevant issues.

Report author	Contact officer: Rosalind Reeves Democratic Services Manager, Rosalind.reeves@cheltenham.gov.uk Tel: 01242 774937
Appendices	None
Background information	None