

Agenda Item No: 7

Report To: Selection and Constitutional Review Committee



Date of Meeting: 13th July 2023

Report Title: Appointment of Members of, or Liaison Members to, Outside Bodies

Report Author: Danny Sheppard
Job Title: Member Services Manager

Summary: Further to the report to this Committee on 25th May 2023, which sought a majority of Liaison Member appointments, a small number of the bodies the Council appoint to have come back to us explaining that they do need either Trustee Members or Voting Members for their own constitutional reasons.

The Council has already delegated the making of the formal appointments to the Solicitor to the Council and Monitoring Officer and Member Services Manager, subject to receipt of the confirmation of either a Liaison Member appointment, or, where already known, confirmation of appropriate insurance to protect the appointee against the risk of any personal liability.

This report therefore asks the Committee to further delegate the making of the formal Trustee or Voting Member appointments to those bodies now asking for the appointments to be made in capacities other than a Liaison Member (or any other organisations who subsequently request). Appointments will be subject to the Solicitor to the Council being satisfied that they are reasonably required by reason of statutory or constitutional provisions and that appropriate insurances are in place for each year of appointment to protect against risk of personal liability arising from undertaking the role in question.

Recommendations: **That the Committee delegate the making of the formal Trustee or Voting Member annual appointments to those bodies now asking for the appointments to be made in capacities other than a Liaison Member, (or any other organisations who subsequently request), to the Solicitor to the Council and Monitoring Officer.**

Appointments will be subject to the Solicitor to the Council being satisfied that they are reasonably required by reason of statutory or constitutional provisions and that appropriate insurances are in place for each year of appointment to protect against risk of personal liability arising from undertaking the role in question.

Policy Overview:	<p>The appointment of Liaison Members to work with outside bodies assists with Members' community engagement role, and helps to ensure that the Council is well connected with the wider community, while not affecting the ability of those Members to carry out their full roles as elected Members of the Council.</p> <p>In a limited number of cases, the Council has determined it to be beneficial and appropriate to appoint a Member (or another person, such as an Officer) specifically to act as a Trustee or Director of an outside body, for example in order to strengthen the governance of that body, to provide an appropriate balance and breadth of background and experience to the board of management of that body, and/or to fulfil the expectations of specific charitable foundations of many years' standing.</p>
Financial Implications:	None for the Council directly. The Recommendations are intended to avoid financial implications arising for Appointees and the Council.
Legal Implications: <i>Text agreed by Principal Solicitor – Strategic Development on 17/5/23</i>	The formal appointments should be delegated to the Solicitor to the Council and Monitoring Officer to make, subject to the receipt of relevant confirmation, so will not take effect until this has been received. New appointees do not commence, and should not act as if commencing, their appointed roles until formally appointed in writing by the Solicitor to the Council and Monitoring Officer.
Background Papers:	None
Contact:	Danny Sheppard – Member Services Manager danny.sheppard@ashford.gov.uk

Appointment of Members of, or Liaison Members to, Outside Bodies

Introduction and Background

1. Further to the report to this Committee on 25th May 2023, which sought a majority of Liaison Member appointments, a small number of the bodies we appoint to have come back to the Council explaining that they do need either Trustee Members or Voting Members for either statutory, or their own constitutional, reasons.
2. For clarity this refers to the following organisations: -

Organisation	Proposed Member	Requirement	Response
High Weald (AONB) Joint Advisory Group	Cllr Pickering	Voting Member	<p>To confirm The High Weald Joint Advisory Committee requires a Member from each of its 15 local authorities to attend meetings to approve budgets and for voting on particular agenda items such as the Management Plan 2024-2029. We require a Member to attend two meetings per annum. We look forward to the appointment of the Member to the JAC in due course.</p> <p>The Committee is covered by ESCC Public Limited Insurance for all meetings and events. (details sent)</p>
Kent and Medway Police and Crime Panel	Feacey	Voting Member	<p>I am writing quickly to confirm that it is a Statutory Requirement for all Local Authorities in the Kent Police area to nominate or appoint a Member to the Panel – the Panel has specific responsibilities in terms of</p>

			<p>Scrutinising the Police and Crime Commissioner (PCC) and take particular decisions each year on approving or otherwise the PCC's precept proposals (this is sometimes determined via a formal vote).</p> <p>The Panel is a Joint Committee of all District, Unitary and County Local Authorities in the Kent Police Area with KCC as the current Host Authority. On that basis, it is not a separate company or entity capable of requiring Directors or Trustees etc. By virtue of being required to appoint a Member to the Panel, Ashford Borough Council are an integral required component of the Committee.</p>
River Stour Internal Drainage Board	Buchanan Hicks Ledger Meaden Ovenden	Voting Member	<p>Please note that IDB Members are elected or appointed in accordance with the Land Drainage Act, with Council Appointed Members made in proportion to the corresponding Special Levy. All are required to be full Members, able to vote on IDB matters in order to ensure an appropriate balance between Special Levy and Ratepayer interests across the IDB District. I can confirm that the Board holds Directors Liability Cover as part of its insurance policy, and I attach the relevant excerpts for your information.</p>
Romney	Hicks	Voting Member	Please note that IDB

<p>Marshes Area Internal Drainage Board</p>			<p>Members are elected or appointed in accordance with the Land Drainage Act, with Council Appointed Members made in proportion to the corresponding Special Levy. Please find attached insurance copies for our members. I've included our liability insurance and our private edge insurance. Please note that section D in the private edge schedule refers to members, I've put in a copy of the payment to show that everything is up to date.</p> <p>I hope this is sufficient for you to be able to confirm Cllr Hicks as a full member of the Romney Marshes Area IDB and not as a Liaison Member?</p>
<p>Sandyacres Trust</p>	<p>Krause</p>	<p>Trustee</p>	<p>I wish to point out that the signed Declaration of Trust drawn up by ABC and BAEPC states the Council responsibility is to nominate one Trustee for the Trust. Given the note that membership of the Trust is to be a Liaison Member, I ask whether this conflicts with the aforementioned statement.</p> <p>The Trust insurance policy with Zurich covers £5m public liability, and additionally includes Professional Services Extension with £500k cover for personal financial and administration liability. Cover states: for financial loss, and Third Party Property Damage or</p>

			<p>Bodily injury is provided where arising from advice or services carried out in the furtherance of the Trust's purpose as a registered charity. This additional cover was taken out to specifically protect Trustees from financial liability should the Trust encounter financial failure.</p>
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Proposal

2. Full Council on 27th April 2023 considered issues surrounding the appointment of members of, and Liaison Members to, outside bodies. Council agreed, and all appointees are reminded, that all appointments (whether continuing or new) to outside bodies shall be expressly made as Liaison Members only and on the express basis that appointees are not authorised to act as Directors, Trustees, Board or Management Committee members (unless the appointment expressly states to the contrary and the capacity in which the appointee is authorised to act).
3. 'Outside Bodies' for the purpose of this report refers to outside organisations, being charitable, voluntary, or public-sector/ public-interest in nature, who have either (a) requested or require a Member of the Council to be appointed to act as a bridge between themselves and the Council (known as a Liaison Member), or (b) a specific requirement for a member of their board or other governing body to be appointed by the Council, pursuant to their Constitution. For the purposes of this report, "outside bodies" does NOT include Council-owned (or jointly-owned) trading Companies where the Companies are established pursuant to the Executive functions of the Council. In these cases the power to appoint representative Members to their Boards lies with the Executive, through the Trading and Enterprise Board acting as a Committee of the Cabinet.
4. The Selection and Constitutional Review Committee met on 25th May 2023 and made recommendations to the Full Council meeting on 30th May. These were for a majority of Liaison Member appointments. Following notification of those proposed appointments, a small number of the bodies we appoint to (detailed above) have come back to the Council explaining that they do need either Trustee Members or Voting Members for either statutory, or their own constitutional, reasons.
5. Officers now intend to again contact those small number of organisations, seeking confirmation that this is necessary by virtue of their trust documents or constitutions and that they have appropriate insurance in place to protect the appointee against the risk of any personal liability. Once that confirmation is received, those appointments will be confirmed. Appointments will be subject to the Solicitor to the Council being satisfied that they are reasonably

required by reason of statutory or constitutional provisions and that appropriate insurances are in place for each year of appointment to protect against risk of personal liability arising from undertaking the role in question.

6. Appointments will be made on an annual basis and reviewed each May. This will ensure that assurances and insurance evidence are sought and provided annually.
7. The Committee is therefore asked to further delegate the making of the formal Trustee or Voting Member annual appointments to those bodies now asking for the appointments to be made in capacities other than a Liaison Member, (or any other organisations who subsequently request), to the Solicitor to the Council and Monitoring Officer, subject to the assurances listed in this report.

Consultation Planned or Undertaken

8. Consultation with Outside Bodies is not required. The basis on which appointments are being considered/made will be made clear to them in future correspondence.

Other Options Considered

9. In cases of doubt, there is always an option of not making an appointment at this time. This will be considered if necessary.

Contact and Email

10. Danny Sheppard, Member Services Manager
danny.sheppard@ashford.gov.uk