

Annual Council Meeting	Agenda Item:
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Meeting Date	15 May 2013
Report Title	Borough Council representation on outside bodies, trusts administered by Swale Borough Council and statutory bodies
Portfolio Holder	Leader
SMT Lead	Director of Corporate Services
Head of Service	n/a
Lead Officer	Democratic and Electoral Services Manager
Key Decision	No
Classification	Open
Forward Plan	Reference number: n/a

Recommendation	1. The Council is asked to agree Borough Council representation on outside bodies, trusts administered by Swale Borough Council and statutory bodies
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1. Purpose of Report and Executive Summary

- 1.1 Following the review and audit of outside bodies carried out in 2011, there are now 43 outside bodies within Swale that have representatives from Swale Borough Council on them. In accordance with the revised procedures, Group Leaders were asked to undertake an annual review as to whether they consider nominations should continue to be made to these organisations.
- 1.2 This report is asking the Council to agree representation to outside bodies, trusts administered by Swale Borough Council and statutory bodies. It should be noted, that some of the appointments can be made by the Cabinet and so the Council is not asked to agree those. For completeness, however, details of those outside bodies are included in the attachment to the report.

2 Background

- 2.1 Group Leaders have submitted their proposals for nominations which are set out in Appendix I (to follow).
- 2.2 By way of background, the protocol agreed by Council on 23 February 2011 set out the following guiding principles as to whether or not appointments should be made. They are:

Essential:-

- Representation is still required – will be reviewed annually
- Appointee's role is clearly defined and does not duplicate existing arrangements
- Aims and objectives of the Outside Body (OB) are compatible with the Council's
- OB must have Terms of Reference, Constitution, Written agreement, Trust Deed or Memo and Articles, Audited accounts
- OB indemnifies appointed member and adequate insurance cover is arranged by organisation
- Appointment required by virtue of a statutory duty or other legal requirement;
- Appointment required by virtue of a specific decision or policy adopted by the Council;
- Any costs of attendance can be met within resources available to the Authority

Additional considerations:-

- Appointment will improve the Council's working relationships with outside bodies
- Appointment deriving from the Council's community leadership/consultative role or enhances the Council's Community Leadership role
- Organisation set up by the Council
- To ensure that the authority is in a position to influence sub-regional strategic decisions
- Capacity building – where interests, expertise or specific skills or knowledge are required – two way process
- Time commitments must be proportionate to the Council's objectives
- Equality of access to Councillors' time
- Expenses covered by external organisation (save from VCS)

2.3 Members may wish to think seriously before being nominated as a trustee or director by the Council, with regard to the legal obligations that this imposes on the appointee. Attention is drawn to the information below:

2.3.1 **Constitution position** – the appointment process within the Constitution follows certain principles. It is split between (a) those bodies to which the Council appoints as a body corporate e.g. charities and trusts and which fulfil primarily council functions and (b) those which do not require 'body corporate' appointment and are more closely linked to the exercise of executive functions e.g. partnerships.

In relation to Faversham Pools Management Committee, the Council is appointed as the Custodian Trustee and has to discharge its responsibilities as a Council function and is not able to delegate it. The appointment of trustees is set out with the Declaration of Trust which states that a member need not be a member of the appointing organisation. So notwithstanding that this is a Council responsibility, if

the desire is to appoint more community members then this can be achieved by the Council through its own normal nomination process.

2.4 **Register of Interests** - Members are required to record any changes to their interests arising from their appointment to an outside body.

2.5 A separate report will be presented to Council with reference to re-structuring and on-going discussions with the Queenborough Fisheries Trust.

3 **Proposal**

3.1 Council is asked to consider the Group Leaders' nominations and decide who should be appointed to sit on each body as set out in Appendix I.

4 **Alternative Options**

4.1 Council can decide whether or not to accept the nominations made by the Group Leaders, and whether or not to make appointments to those outside bodies. Consideration should be given to the principles already agreed in the Outside Bodies' Protocol adopted by full Council on 23 February 2011.

5 **Consultation Undertaken or Proposed**

5.1 The proposals in this report follow consultation with the Group Leaders.

6 **Implications**

Issue	Implications
Corporate Plan	Open for Business.
Financial, Resource and Property	None identified at this stage, although should the Executive recommend to Council to review the process and policy of nominations on outside bodies, this would have a human resource implication.
Legal and Statutory	The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 sets the responsibilities between Council and the Executive. Some appointments are as Trustees or Directors which have specific legal responsibilities and liabilities for the individual member. To ensure compliance with the Members' Code of Conduct any member appointed to an outside body must review their declaration in the Members' Register of Interests within 28 days of any change.
Crime and Disorder	None identified at this stage.

Risk Management and Health and Safety	The audit of outside bodies, undertaken as part of the Third Sector Strategy, reviewed the roles and capacities of Members the Council nominates to outside bodies. The audit enabled the Council to identify and manage any risks that may arise from making appointments to outside bodies and allows members to take informed decisions about whether or not they wish to accept appointments that could impose significant legal obligations on them.
Equality and Diversity	None identified at this stage, although should there be a further review of the process and policy of nominations on outside bodies, this could have equality and diversity implications.
Sustainability	None identified at this stage, although should there be a further review of the process and policy of nominations on outside bodies, this could have equality and diversity implications.

7 Appendices

7.1 The following documents are to be published with this report and form part of the report

- Appendix I: Sets out the current representation on trusts and outside bodies and proposed nominations.