

The Executive**On 24 April 2007**Report Title: **Review of Council Representation on Outside Bodies**Report of: **Interim Director of Corporate Resources and Assistant Chief Executive (People and Organisational Development).**Wards(s) affected: **All**Report for: **Non Key Decision****1. Purpose**

- 1.1** To review the relationship that the Council has with a large number of outside bodies
- 1.2** To suggest ways of assessing the benefits such involvement produces, both for the community and for the attainment of the Council's strategic priorities, to enable Members to reassess our current involvement from an informed standpoint.
- 1.3** To identify the governance issues that arise from this involvement and plan a suitable response to Members' concerns in this area.

2. Introduction by the Executive Member for Community Involvement and Deputy Leader

I am pleased to bring this report to the Executive for approval.

This Executive takes our Community Leadership role extremely seriously. We are, above all, community representatives and both we and the Community have a great deal to gain by sitting on Outside Bodies.

The purpose of this report is to assess the benefit of such involvement, for the attainment of the Council's strategic priorities, and to enable Members to reassess our current involvement.

The main aim of the review was to scrutinise and evaluate the relationship the Council has with a large number of outside bodies and in terms of the demands it puts on the Council's resources.

I am pleased that this report responds to concerns expressed by my fellow elected Members about the implications for individual and corporate liability of taking on

responsibilities in the running of outside bodies.

I ask that Members of the Executive approve this report and its content.

3. Recommendations

1. That the Executive consider the proposals for Council representation outlined at paragraph 12.8 and decide in principle on the course to be followed, instructing Officers to come back with specific proposals for action.
2. That the Executive considers, as suggested at paragraph 12.9 of the report, whether there are more effective means by which the Council can keep up to date about and influence developments in outside bodies than by sending representatives.
3. That the Executive clarifies whether the Executive or full Council should deal with the appointments to outside bodies as detailed at paragraph 12.10 of the report and agrees that amendments to the Constitution are processed to reflect their decision.
4. That the further work identified in paragraph 12.13 of the report be undertaken.

Report Authorised by: **Interim Director of Corporate Resources and Assistant Chief Executive (People and Organisational Development).**

Signed: _____ Date: _____ Signed: _____ Date: _____

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4. Director of Finance Comments

- 4.1 The Acting Director of Finance has been consulted on this report and considers that the financial risks are minimal and could, in the unlikely event that insurance premiums are raised, contain any small increase within existing resources.

5. Head of Legal Services Comments

- 5.1 The Head of Legal Services has been a joint contributor to this report and all relevant information is included in the report text.

6. Local Government (Access to Information) Act 1985

- 6.1** List of outside bodies (Appendix A)
Questionnaire (Appendix B)
Results of Survey of Outside Bodies (Appendix C)
Responsibilities on Outside Bodies (Appendix D)
Outline of the requirements of the use of the well-being power (Appendix E)

7. Strategic Implications

7.1 Member representation on outside and partnership bodies contributes to delivery of the strategic aims of the authority.

8. Financial Implications

8.1 Members' attendance at outside bodies are covered by their allowances payable under Part C7 of the Council's Constitution.

8.2 Sending representatives to outside bodies always presents a small risk that the Council's indemnity cover may be called on. If this occurred it could lead to the Council's insurance premium being raised with resultant budgetary implications.

9. Legal Implications

9.1 The legal implications are set out in the text of the report.

10. Equalities Implications

10.1 Member representation on outside bodies safeguards that objectives and delivery of service are in the interests of Haringey's diverse community.

11. Consultation

11.1 The Head of the Voluntary Sector Team has been consulted on this report.

12. Background

12.1 Each year the Annual General Meeting of the Council agrees the nomination or appointment of those Councillors who are to represent the Council on outside bodies for the next municipal year. Following earlier discussions at General Purposes Committee around the issue of indemnities and the breadth of bodies members were expected to be involved in, a review of outside bodies was embarked upon. The objective of the review was to:

- scrutinise and evaluate the relationship the Council has with a large number of outside bodies – to assess it in terms of the value such a relationship has for the attainment of the Council's aims, and in terms of the demands it puts on the Council's resources;
- respond to concerns expressed by elected Members and by senior officers about the implications for individual and corporate liability of taking on responsibilities in the running of outside bodies.

- Identify any areas where improvements can be made to governance arrangements in this area.

The Council's representation / involvement in outside bodies has been considered in a series of external reviews, including the 2005 Audit Commission report on Governing Partnerships, The Ethical Governance Audit 2007 and the Partnerships Audit. This report is designed to also address those issues raised.

12.2 Survey of Outside Bodies

The review has included the sending out of a questionnaire to the large majority of outside bodies that the Council sends representatives to (as detailed in Appendix C). A copy of this questionnaire is attached to the report at Appendix B. It was designed to obtain information about the functioning of each body and provide some basis upon which Members could reasonably decide which bodies to continue to send representatives to. A copy of tabulated results of this survey is set out at Appendix C.

12.3 Range of Outside Bodies and Particular Duties and Liabilities Attached

The results of the review highlight the wide range of outside bodies that the Council sends representatives to. This large number groups into five main types of bodies:

- Association Bodies: cross London /regional bodies.
- Community Bodies: largely local management committees which are likely to be charitable trusts and may also be companies with the remainder being unincorporated associations.
- Partnership Bodies: local partnership bodies including a small number of company boards.
- Statutory Bodies: majority to do with Education functions but include AP&P Advisory Committee and Safer Communities Executive Board.
- Trusts, which may or may not be companies.

A detailed breakdown of the organisations in each of the above five categories to which the Council sends representatives is included at Appendix A.

Attached at appendix D is a short note on the different duties and liabilities that membership of these bodies involves.

12.4 Determining a policy for the future

The outcome of responses to the questionnaire will be one factor that members should take into account in determining the nature and extent of the Council's future involvements. Other factors include the particular duties and liabilities attached to different categories of bodies and to the different kinds of representation.

12.5 Sending Representatives to Outside Bodies

Sending representatives to outside bodies has been seen as a key constituent of the Council's involvement in the community and an expression of the Council's commitment to supporting local community activity. The Government's recent White Paper talks of fostering effective relationships with public, private, voluntary and community organisations in the borough.

Partnership activity, sponsored or supported by the Council will be a key feature of the future interface between Council and community and a key means for the achievement of Council objectives.

On the other hand there is legitimate concern about the liabilities that can be incurred individually or on behalf of the Council by Members who are nominated to represent the Council on these bodies.

Bearing this in mind, this report gives Members options to choose from in setting the level of Member involvement in outside bodies.

12.6 The Council's Powers

In sending representatives to outside bodies, the Council must ensure that it does so in accordance with its powers. These may derive from its position as a local authority, an education authority, or a social services authority or from other powers. It is important for both the Council and the representative that the statutory basis for each representation is made clear. In some cases the basis of participation will be the Section 2 Local Government Act 2000 well-being power and it will be important in each case for a check to be made that the requirements of the use of this power are met (see Appendix E) . Attached at Appendix A is a table showing all outside bodies by category and identifying under which power(s) Council representatives are sent.

12.7 Assumptions

The review and the options presented in this report proceed from a set of assumptions which Members are asked to consider:

- Ensuring Council representation at **Association bodies** which are largely made up of LGA and GLA sub bodies is politically very important for the Council and although the current list needs to be updated, it is assumed that Members will wish the present scale of such representation to continue
- Representation on **Statutory bodies** is obligatory
- Partnership working will demand increasing levels of commitment from Members and Officers and this will make it essential that regular assessments of the effectiveness of **Partnership bodies** in taking forward their's and the Council's policy aims are carried out. Member involvement in **Partnership bodies** may, depending on the nature of the body concerned, involve the additional responsibilities referred to below for **Community bodies**
- When at the request of the Council, Members become Directors, trustees or members of management boards of **Community bodies**, they take on additional responsibilities which must be discharged in the interests of the organisation concerned. This not only places more responsibility on the Members concerned but can produce conflicts of interest that may not easily be resolved. The proposed changes to the Members Code of Conduct that are likely to come into effect very shortly will not remove such conflicts of interest nor lessen their significance but will give greater freedom to Members to contribute to debates about organisations that they are involved in or are delegates for.. Alternative ways of working with these bodies short of representation, where there is a common interest based on their policies and

the Council's aims, should be considered that do not involve such conflicts of interests and the taking on of responsibilities for the organisation.

12.8 Suggested Option

The following proposals, based upon the assumptions set out above, are suggested for Members' consideration:

- The Council continues to send representatives to **Association, Statutory and Partnership bodies**. Issues to do with monitoring the effectiveness of Partnership Bodies and addressing governance issues raised by this kind of work will be addressed by a subsequent report.

And

- The Council continues to send representatives to **Community bodies**, including those that are charitable trusts/companies but instructs officers to conduct a review of each of these bodies according to the following criteria of whether the particular organisation :
 - has published annual accounts and that these were published on time;
 - has a written constitution;
 - has aims that are consistent with Council's Community Strategy;
 - has a guarantee limiting liability, where appropriate.
 - has a health and safety policy and implements this
 - has an employment policy, if it is an employer.
 - has regularly conducted CRB checks, where relevant.
 - has any appropriate licenses.
 - is such as to require the nature and size of representation currently in place (i.e. Member or Officer, Member of Committee, Director, Trustee).

The results of this review should be included in a further report inviting Members to confirm or amend existing Council authorised representation on these bodies.

12.9 Alternatives to Council Representation

Are there more effective means than sending representatives, by which the Council can keep up to date about and influence developments in particular outside bodies? Bearing in mind the demands on the time of Members and the responsibilities placed upon them as representatives, Members may wish to consider alternatives to the present arrangements with the aim of receiving information about the work of the organisation and listening to their concerns as well as presenting the Council's views and seeking feedback on these. Such alternatives could include:

- Members maintaining contact with outside bodies by arranging to visit and meet staff and see the work of the organisation.
- Attending the organisation's AGM or a committee meeting as a guest.
- Being briefed regularly by officers on developments

12.10 Appointments Procedure

The Council's constitution (at F 2. 13.02) allocates to the Executive the function of appointing officers or Members to outside bodies with the exception of

appointments to joint committees of two or more authorities. It has however been the practice for the Council AGM to make all such appointments and for subsequent full Council meetings to fill vacancies that occur during the year (this is reflected in Part E 1 and E 7 of the Constitution). In the light of this anomaly, Members may wish to consider which body is best placed to carry out this function and to propose any consequent amendments to the Constitution.

Members should note that in the case of joint committees/bodies discharging only “executive” side functions, there are legal requirements that Haringey’s Executive must make the appointments and only Executive Members can be appointed. In the case of joint committees with mixed executive and non-executive functions, any Member can be appointed by full Council but where two or more are chosen at least one must be an Executive Member. Apart from the appointment to these joint committees, it is open to each local authority to decide whether its appointments to outside bodies are made by its Executive or its full Council.

12.11 Indemnities and Insurance

At its meeting of 18 July 2005, the Council adopted resolutions indemnifying both officers and Members against certain liabilities incurred in the course of their work on behalf of the Council. The Council was advised that following publication of the Local Authorities (Indemnities for Members and Officers) Order 2004 it was entitled to grant such indemnities and to take out appropriate insurance. The two resolutions adopted specifically apply to any Member or Officer of the Council who accepts appointment or nomination by the Council as a member of an outside body, including appointment as a Director of a Company. The resolutions also apply the indemnities in similar terms to Members or Officers incurring certain liabilities while sitting as observers on outside bodies.

The terms of the indemnity make it clear that it will operate in subordination to any indemnity/insurance policy taken out by the outside body to which the Member or officer has been nominated.

12.12 Representation in a personal capacity

Members may take up positions on outside bodies in a personal capacity. They are not representing the Council and are not covered by the Council’s indemnity/insurance policy. Depending on whether their involvement is connected with their work as a ward councillor or has a public function, they will be expected to comply with relevant parts of the Code of Conduct.

12.13 Further issues to be considered:

Following Member decisions on the range of bodies to be covered (paragraph 12.8) consideration will need to be given to:

- Identifying governance issues that arise from the different range of outside bodies which the Council participates in, in particular relating to partnerships and producing a policy statement and guidance on these, including guidance on the different roles that Members and Officers have on these bodies. Work on drafting standard terms of reference and codes of conduct for partnership bodies is in progress.
- Proposals for giving support to Members and officers, including training, for their role as representatives. It is proposed that these include the setting up of

individual development sessions with Members who are Council representatives to raise awareness of their special responsibilities and support these Members in trying to ensure that appropriate governance arrangements are in place and being operated in the organisations concerned.

As part of the learning and development, Councillors will be made specifically aware of their legal position as a result of actions taken as a member of an outside body.

- Production of a draft constitution for use in partnership bodies and standard code of conduct to which all members of partnership bodies will be expected to sign up to.
- Options for ensuring that the Council is regularly updated on important developments taking place in outside bodies and kept aware of governance issues that arise in the functioning of those bodies and is able to agree on the appropriate measures to take in each case. This would include options for allowing Members to exercise their legal right to ask questions of Members or officers appointed to certain companies as provided by the Local Government & Housing Act 1989.
- Confirming the proper use of the well-being powers in sending representatives to outside bodies.

13. Conclusion

The following recommendations are made for decision by the Executive:

13.1 Proposals for future Council Representation on outside bodies

That the Executive consider the proposals for Council representation outlined at paragraph **12.8.** and decide in principle on the course to be followed, instructing Officers to report back as suggested.

13.2 Alternatives to direct representation

That the Executive considers, as suggested at paragraph **12.9** of the report, whether there are more effective means by which the Council can keep up to date about and influence developments in outside bodies than by sending representatives

13.3 Appointments

That the Executive review the current practice of appointing representatives at the Council meeting and decide on the appropriate body to discharge this function, as set out at paragraph **12.10** above.

13.4 Outstanding Issues

That the Executive instruct Officers to prepare a further report encompassing the issues raised at paragraph **12.13** above.

14 Use of Appendices / Tables

14.1 Appendix A contains details of all appointments to Outside Bodies by category.

14.2 Appendix B contains the questionnaire survey form to Outside Bodies.

14.3 Appendix C is the tabulated results of the questionnaire to Outside Bodies.

14.4 Appendix D details the different duties and liabilities that membership of these bodies involves.

14.5 Appendix E contains a brief outline of the requirements attaching to the use of the well-being power (Section 2 Local Government Act 2000)