

ANGUS COUNCIL

15 DECEMBER 2022

APPOINTMENTS TO OUTSIDE BODIES - UPDATE

REPORT BY DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

This Report provides an update to elected members in relation to appointments to Outside Bodies.

The Council is asked to:

1. RECOMMENDATIONS

- (i) Make appointments to the following Outside Bodies, having noted the due diligence that officers have undertaken:
 - a) 3 Representatives, each as a **Decision-maker**, on the Angus Citizen's Advice Bureau.
 - b) 1 Representative, as an **Observer**, on Forfar Day Care Centre/Deirdre Knight Centre
 - c) 1 Representative, as an **Observer**, on the Association of Public Service Excellence (APSE)
 - d) Up to 4 Representatives, each as an **Observer** on The North East Scotland Agricultural Advisory Group
- (ii) Note the position regarding the other Outside Bodies as detailed in Appendix 1 to the Report

2. ALIGNMENT TO THE COUNCIL PLAN

This Report contributes to the achievement of our priority that the council is efficient and effective as detailed in our Council Plan for 2022 – 2027.

3. BACKGROUND

At the statutory meeting of Angus Council on 26 May 2022, the Council considered Report No 131/22 which proposed a policy framework for appointments to Outside Bodies. At the meeting of Angus Council on 8 September a further update was provided (Report No 306/22 refers).

Elected members will be appointed on one of two basis. The first being an advisory role, as an **Observer**. This is where the elected member will not become a member of the outside body and will simply observe proceedings or provide advice on the Council's position on a particular matter. It is important that when taking on an observational role, elected members are conscious of limiting their remit accordingly, and not inadvertently influencing policy or management decisions. Otherwise, they may be treated as decision-makers for the organisation, and subsequently take on liability for the decisions made.

The second is a role as a **Decision-maker**. Here, the elected member will become a member of the organisation, (which is separate from their role as councillor). They will therefore take on obligations relating to the role, be able to make decisions on behalf of the organisation and will be responsible for carrying the liability for these decisions. Elected members should be

aware of this and consider these implications when taking on such roles.

A questionnaire, in terms of the new policy was issued to a number of Outside Bodies. The detail requested in terms of the questionnaire was different depending on whether the nomination was as an **Observer** or as a **Decision-maker**. With a **Decision-maker** role the questionnaire had additional questions relating to accountability and financial requirements because of the responsibility which an elected member would be required to take on with this role.

To date, responses have been received from the following Outside Bodies:-

(i) Angus Citizen's Advice Bureau (Scottish Charitable Trust Incorporated Organisation)

3 Representatives requested, each as a **Decision-maker**

Officers reviewed the returned questionnaire in terms of the following criteria:

1. Does the Outside Body have appropriate and transparent governance arrangements in place, dependent on its size and type?

The organisation's constitution outlines the objectives clearly as follows:

- a. the advancement of education through (but not limited to) providing individuals with information, clarification and understanding of legislation and their legal rights and responsibilities;
- b. the relief of those in need through (but not limited to) (i) assessing individuals' entitlement to welfare benefits; (ii) providing assistance in claiming benefits; and (iii) assisting individuals to appeal against refusal of benefits;
- c. the advancement of health through (but not limited to) providing a comprehensive advice service which seeks to address individuals' problems and thereby alleviates the injury to health, stress and anxiety caused by unsolved problems; and
- d. the advancement of community development through (but not limited to) recruiting, training and developing local citizens to be volunteers in and for the Bureau, who in turn assist members of the public within the Area of Benefit, and in doing so contribute to the development of the Area of Benefit.

2. Does the Outside Body have adequate liability insurance in place, appropriate to its size, purpose and type?

In their questionnaire response, they stated: "*As a SCIO, Trustees are not financially liable should the organization run into financial difficulty.*"

It should be noted that as this organisation is a SCIO any member who takes on the role will be responsible for complying with obligations as charitable trustees of a SCIO and as a director of the company.

3. Does the Outside Body provide training on the Elected Members duties and obligations under the appointment?

In their questionnaire response they have stated: "*Our current chair has developed a comprehensive induction programme for any new Trustee. In addition, we have support for Trustees from our membership organisation, Citizens Advice Scotland.*"

4. Are there are clear arrangements in place for Elected Members to exit from the Outside Body?

This is outlined in the constitution as detailed below:

“Any person who wants to withdraw from membership must give a written notice of withdrawal to the organisation, signed by him/her; he/she will cease to be a member as from the time when the notice is received by the organisation.”

In terms of the Accounts and Business Case, Finance Officers have no concerns about the organisation financially on the basis of the accounts presented. They show a fairly healthy net income position which is consistent across the 2 years contained therein. They are reliant on grant funding and the £136k the Council gives is sufficient currently to cover running costs. Most of their other grant income is for specific purposes and is therefore contained in their restricted income information. In terms of running costs in the current environment (energy and general inflation in particular) they have healthy unrestricted reserves (£447k at March 21) so this would not be an issue in terms of their ability to deal with increased costs should that transpire.

Crucially they have assessed their going concern position and confirmed that the accounts are prepared on the going concern basis and the auditors have given a clean audit opinion on that basis.

For the avoidance of doubt, Angus Council's insurance will not cover Elected Members acting in a decision-making capacity on an Outside Body, as the Elected Member will not be acting in the normal course of their duties. Decisions made for these types of Outside Body are made solely in the interests of that Outside Body and not the Council. In relation to CAB, Officers have noted that they have liability insurance in place. The Trustee indemnity limit is £250,000. CAB also have PR crisis communication cover of up to £25,000 and a legal expenses indemnity limit of £250,000.

(ii) Forfar Day Care Centre/Deirdre Knight Centre (Private Limited Company by Guarantee)

Forfar Day Care Centre requires one councillor for a period of five years, as an **Observer**.

Officers reviewed the returned questionnaire in terms of the following criteria:

1. Does the Outside Body have appropriate and transparent governance arrangements in place, dependent on its size and type?

Yes. The constitution appears to be up to date and clearly outlines the objectives of the committee., which is to promote *the welfare of the aged in any matter which is deemed to be charitable within the Forfar area*.

2. Does the Outside Body have adequate liability insurance in place, appropriate to its size, purpose and type?

Yes. This was confirmed in the questionnaire response.

3. Does the Outside Body provide training on the Elected Members duties and obligations under the appointment?

In their questionnaire response they highlighted that they are “*Happy for Councillors to visit Centre and find out what goes on there*”. Consequently there does not appear to be any training but it should be noted that this role is observational.

More information in relation to what the Councillors duties/obligations was sought with the response as follows:-

Initial obligation would be familiarisation with the service provided, with the staff employed and with any issues regarding the property as these are the main items which tend to come up at meetings. Councillors are welcome to take full part in discussion on all matters even though they have no voting rights or decision-making powers as stated above Direct links with the Council have been extremely useful in the past and we consider them essential.

Members would need of course to be mindful of the advice provided above in terms of taking on more than an observational role.

4. Are there are clear arrangements in place for Elected Members to exit from the Outside Body?

S.3 of the constitution states the following:

“Members shall be elected at Annual General Meetings. The Committee may Co-opt persons having special knowledge or experience. Membership of the Committee shall be for a period of one year or in the case of co-opted members, until the succeeding Annual General Meeting. On retirement, members shall be eligible for re-election.”

(iii) Association of Public Service (APSE) (Not for profit unincorporated association)

APSE would like 1 Representative, as an **Observer** to be able to contribute to discussions about services within advisory group meetings.

The aims and values of APSE are to consult, develop, promote, advise and share on best practice and the provision of efficient and accountable services and to act as a champion in promoting continuous improvement in the delivery of excellent, cost effective, efficient and accountable public services.

Officers reviewed the returned questionnaire in terms of the following criteria:

1. Does the Outside Body have appropriate and transparent governance arrangements in place, dependent on its size and type?

Yes. The organisation’s constitution includes clear details on how they conduct their business.

2. Does the Outside Body have adequate liability insurance in place, appropriate to its size, purpose and type?

In their questionnaire response they have stated that they have liability insurance and have attached the relevant documents.

3. Does the Outside Body provide training on the Elected Members duties and obligations under the appointment?

In their questionnaire response they have stated that there are no training requirements.

4. Are there are clear arrangements in place for Elected Members to exit from the Outside Body?

The Scottish constitution states the following:

“i. Member Authorities and public bodies wishing to withdraw from the Regional Association must give 12 months’ notice in writing

ii. For the avoidance of doubt, any member wishing to withdraw from the National Association, must give 12 months’ notice in writing to the Chief Executive of the National Association”

The national constitution states:

“(c) Member authorities/Associate members wishing to withdraw from the Association must give twelve months' notice in writing.”

Following completion of due diligence, officers are satisfied with the governance arrangements that are in place for the Association of Public Excellence and accordingly the Council is asked to appoint one member, as an Observer.

(iv) The North East Scotland Agricultural Advisory Group (An Advisory Group)

The request is for up to 4 Representatives, each as an **Observer**.

1. Does the Outside Body have appropriate and transparent governance arrangements in place, dependent on its size and type?

Aberdeenshire Council is responsible for Clerking this Group and the Terms of Reference details the remit and specific objectives clearly, as follows:

To act as an advisory body to the Councils in North East Scotland, encompassing all rural affairs, with particular interest in agriculture and rural employment, farm incomes, farming policy, conservation, diversification of farming including forestry, tourism and farm industries, the implications of change in farming practice and land use and the provision of infrastructure, services and facilities in rural areas.

2. Does the Outside Body have adequate liability insurance in place, appropriate to its size, purpose and type?

In their questionnaire response they have selected "N/A". Further information was requested with the following response – *The activities of NESAAAG are confined to meetings of members at Woodhill House or by tuning in remotely by Teams or a hybrid combination. Accordingly, the meetings are covered by standard council insurance.*

(This aspect is less of a concern when the nomination it is simply as an Observer as it carries no responsibility for decisions.)

3. Does the Outside Body provide training on the Elected Members duties and obligations under the appointment?

In their questionnaire response they have stated: *"Training is available upon request. However, Angus Councillors have always conducted themselves to the highest standards at NESAAAG."*

4. Are there are clear arrangements in place for Elected Members to exit from the Outside Body?

Their questionnaire response states the following: "Councillor members are free to stand down at any point. Angus Council can nominate a replacement member if so desired."

4. FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications arising directly from this report.

5. EQUALITY IMPACT ASSESSMENT

- 5.1 An equality impact assessment is not required.

NOTE: No background papers, as detailed by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

Appendix 1 - Outside Bodies Update

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