Committee: Appointments Sub-Committee

Date of meeting: 21 January 2019

<table>
<thead>
<tr>
<th>Subject:</th>
<th>Appointment of Nominative Trustees</th>
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</thead>
<tbody>
<tr>
<td>Lead Officer:</td>
<td>Head of Democratic Services</td>
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<td>Portfolio Holder:</td>
<td>Leader of the Council</td>
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<td>Link to Council Priorities:</td>
<td>All</td>
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<td>Exempt information:</td>
<td>None</td>
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<td>Delegated status:</td>
<td>For resolution</td>
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</tbody>
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Executive Summary:

The Sub-Committee is requested to consider nominations in respect of appointments to various charities as set out in the report.

Recommended:

(a) that a Nominative Trustee be appointed to the Charity of Robert Phillips, as indicated in the report; and

(b) given the recent circumstances pertaining to the Weybridge Charity, specifically its recruitment process as set out in the report, as well as the public interest shown, Members are asked to consider:

   (i) whether the Council wishes to seek to be released from being the Charity's appointing body and, in that event, give notice to take effect from 1 September 2019 to provide the Charity ample time to make new arrangements; and/or

   (ii) consideration be given to appointing nominated Trustees to the three current vacancies for four-year terms of office, to ensure the Charity has a full complement of nominated Trustees to discharge their functions.

Report:

1. **Charity of Robert Phillips**

Three Trustees are appointed for a four-year term of office by Elmbridge Borough Council, and three by Surrey County Council. Trustees may, but need not be a Member of the appointing Council.

The term of office of Councillor B.J.F. Cheyne expires on 26 January 2019. Councillor Cheyne has indicated his willingness to be reappointed for a further four-year term of office.

Accordingly, the Sub-Committee is invited to consider the reappointment of Councillor B.J.F. Cheyne for a further four-year period expiring 26 January 2023.

(For Members’ information, the Council’s other nominative Trustees are Mr. D. Palmer and Mr. M. Mills.)
2. **Weybridge Charity**

The Weybridge Charity invites the Borough Council to appoint six Trustees each for a 4-year period of office. Historically, on the basis of Charity preference but not a constitutional requirement, two Trustees represent the Weybridge North Area; two represent the Weybridge South area; one represents the Oatlands Park area; and one represents the St. George’s Hill area. Former Councillors can continue to act as Trustees for relevant areas.

At the previous Appointments Sub-Committee meeting held on 10 October 2018, the Sub-Committee noted the Charity’s recommendations in respect of the two Trustee positions that were due to be filled. However, subsequent to the Charity’s recommendation to the Council that Mr. G. Winton be re-appointed for a further term of office and that a serving or former elected Member be appointed to the second position, it was acknowledged that a number of local residents had expressed an interest in being considered for the vacancies.

The Appointments Sub-Committee noted that although the Charity’s view was that the six nominative Trustees appointed by the Council should be either former or serving Councillors, the Charity’s Scheme did not include such prescriptive requirements and that a nominative Trustee did not have to be a former or serving Councillor.

Given that a number of expressions of interest from local residents had been received in respect of the two vacancies, the Sub-Committee considered it appropriate that the Charity consider a more transparent process for the selection, and appointment of nominative Trustees.

Accordingly, Members agreed that these two appointments to the Weybridge Charity be deferred. The Charity was advised of the Council’s decision and was asked to contact the Council in due course once a clear selection process had been established.

Following the meeting, the Charity acknowledged the Sub-Committee’s decision and steps were taken by the Weybridge Charity to review and implement a new nominative Trustee selection process in accordance with the Charity’s Scheme. The Charity advertised the two vacancies, set a deadline date for interested applicants, scheduled a selection and interview date and was to inform the Council of its recommendations once complete. In addition, following the resignation of another Council Appointed Trustee, the Charity advised this third position would be considered along with the other two.

On the 6 December the Charity contacted the Council to advise that the Charity had applied to the Charity Commission for an amendment to Clause 5 of the Charity’s 25 September 1992 Governing Scheme, in respect of nominated Trustees. The Charity advised that the Charity Commission had approved the amendment that now stated:
“Nominated Trustees. Except at first as hereinafter provided the Nominated Trustees shall be appointed by Elmbridge Borough Council. Each appointment shall be made for a term of four years at a meeting convened and held according to the ordinary practice of the appointing body. The chairman of the meeting shall cause the name of each person appointed to be notified forthwith to the Trustees or their clerk. The person appointed shall be a serving or former member of the appointing body.”

The Charity therefore advised that given this subsequent amendment, all of the applications from local residents received before the advertised closing date of 16 November 2018 became ineligible apart from three which related to serving or former Members of Elmbridge Borough Council, and that they had all been informed accordingly. At the Weybridge Charity’s Trustee meeting on 5 December 2018, the Trustees decided to dispense with the planned candidate interviews and therefore recommended that (former Councillor) Mr. G. Winton, Councillor Michael Freeman and Councillor Mrs. Vicki Macleod be nominated for appointment to the three vacancies.

The Council, as the appointing body, had not been made aware/consulted on the amendment that was being sought by the Charity in respect of the nominated Trustees criteria.

Advice was sought from the Charity Commission who verbally advised that the Council could inform the Charity that it no longer wished to be the appointing body and ask the Charity themselves to seek an alternative appointing body. Any amendment would need to be reflected in the Charity’s Scheme. Written confirmation in respect of this guidance has been requested.

A summary of the full events is present at Appendix A for information.

Given the steps taken by the Charity to make this amendment without any consultation with Elmbridge Borough Council despite being aware of the Council’s wish for a more inclusive and transparent recruitment process, a view will need to be taken as to whether the Council should now disengage from being the appointing body and to ask the Charity to find an alternative appointing body.

Accordingly, the Sub-Committee is invited to consider the recommendations of the Weybridge Charity. If the Sub-Committee is minded to agree to the recommendations, the terms of office for each person would expire on 21 January 2023. The Sub-Committee is also invited to consider whether it wishes the Council to remain as the appointing body or whether it wishes to advise the Weybridge Charity that it will need to seek an alternative appointing body.

**Financial implications:**
None.
Environmental/Sustainability Implications:
None.

Legal implications:
It should be noted that Trustees are appointed to act in the best interest of the charity they are appointed to. While acting as Trustees they must put the charity first, and should take into account relevant charity legislation and any other requirements.

Equality Implications:
None.

Risk Implications:
Failure to appoint Trustees may affect the governance of the charities involved and have a negative reputational impact on the Council.

Community Safety Implications:
None.

Principal Consultees:
Relevant charities as appropriate.
Head of Legal Services

Background papers:
None

Enclosures/Appendices:
Appendix A – Weybridge Charity Summary of Events

Contact details:
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