

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 2003	<b>MEETING NAME</b> Standards Committee
<b>Report title:</b>		<b>CONCLUSION OF REVIEW OF PROCESS OF APPOINTMENTS TO CHARITIES</b>	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		VOLUNTARY BODIES APPOINTMENTS PANEL	

### **RECOMMENDATION(S)**

1. That Standards Committee receives a report from the Voluntary Bodies Appointments Panel.
2. That Standards Committee notes and endorses the:
  - Process which has been followed to review appointments to charities.
  - The New Information pack at appendix 1, including the revised application form, and reference form.
  - Article from Southwark Life at appendix 2.
  - Procedure for appointing school governors via Community Councils at appendix 3.
  - Principles which apply to charity appointments at Appendix 4.
3. That Standards Committee nominates an independent member to serve on the Panel.

### **BACKGROUND INFORMATION**

4. The Council makes appointments to a number of Charity Trustees, under the trust deeds of the respective trusts. Up until May 2002, Charity Appointments were made by the Chief Executive on the recommendation of the Charities Panel. Prior to that appointments were made by the Chief Executive after agreement between the whips. Under the new constitution, Standards Committee should constitute a Voluntary Bodies Appointments Panel to make recommendations on appointments to Southwark charities and to make appointments to school governing bodies.
5. The panel is a cross party one with 2 Labour, 2 Liberal Democrat and 1 Conservative Group place, plus 1 Independent Member. There is currently a vacancy for an Independent Member.
6. In June 2002, Standards Committee asked the Voluntary Bodies Appointments Panel to review the process for making appointments to charities and to governing bodies, in light of the Charity Commission's latest guidance, and government guidance on appointments and to report back to Standards Committee with recommendations for appointments processes which:
  - a. Reflect best practice
  - b. Are open and transparent
  - c. Promote Equal Opportunities
  - d. Provide for appointment on merit

- e. Ensure that the abilities, experience and qualities of the trustees/governors match the needs of the Trust/ Governing Body
- f. Ensure that only people who meet the statutory qualifications are appointed.
- g. Are proportionate to the nature of the role.

The above criteria (a-g) were drawn from guidance on public appointments from the Office of the Commissioner for Public Appointments.

- 7. The Voluntary Bodies Appointments Panel reviewed the information pack, procedures for appointing school governors and principles for charity appointments on 26 August 2003.

## **KEY ISSUES FOR CONSIDERATION**

- 8. The Charity Commission guidance referred to was a report on Trustee Recruitment, Selection and Induction. The Charity Commission's guidance includes:
  - (a) Charity trustees should be appointed on the basis of their relevant experience and skills
  - (b) When recruiting new trustees the appointing body needs to be clear about the purposes and aims of the charity, and the trustees' broader duties and responsibilities so that prospective trustees can be made aware of what is required of them. It is suggested that a job description can be a useful tool to provide prospective trustees with a balanced account of what is involved in being a trustee, including duties and responsibilities.
  - (c) A prospective trustee's potential conflicts of interest should to be considered prior to appointment.
  - (d) Traditional methods of recruiting (e.g. word of mouth or personal recommendation) are more likely to narrow the field from which trustees are drawn, and work against having a diverse trustee body – the Commission believes diversity is an important factor for accountability and promoting public confidence and encourages diversity.
  - (e) The Commission notes that advertising can be an effective way of reaching a wider group of people, and that advertising can specify particular skills requirement.
  - (f) Checks need to be made prior to appointment that the trustee is eligible. The extent of these checks will depend on the nature of the charity and the perceived risks.
  - (g) Where a local authority makes appointments, it is recommended that the views of existing trustees are sought as to whether the charity has any particular needs at the present time.
- 9. The new process and application forms take into account the above guidance in that:
  - (a) The new application form seeks to elicit information about the relevant skills and behaviours required of a trustee (based on the 8 "C" Competences as set out below.)
  - (b) An information pack with basic information about the charities and trustee duties has been produced (see appendix 1).
  - (c) Conflicts of interest are elicited on the application form (in appendix 1).
  - (d) The process no longer relies on word of mouth.
  - (e) Advertising in the local press, via Community Councils, Southwark Life, and the website encourages a wider field.
  - (f) A checklist of eligibility is included in the application form

- (g) The views of existing trustees have been sought, where practicable, prior to appointments.
10. The Women's National Commission identified Seven "Cs" Competencies for Public Appointments,
- (a) **Commitment:** Taking time to understand the workings of the body, and the need for regular attendance at meetings.
  - (b) **Conscientiousness:** Reading briefing papers thoroughly, and playing a full part
  - (c) **Confidence:** Speaking up at a meeting and expressing a point of view
  - (d) **Common Sense:** Assessing the impact of proposals on individuals and bringing an independent view to discussions
  - (e) **Courage:** Asking the question that no-one has asked, and querying why a certain approach is being recommended.
  - (f) **Clarity:** Seeking clarification where necessary.
  - (g) **Committee Experience.**
11. The seven "C"s have become the criteria for appointments and are used as the basis for the application form, along with an eighth "C" identified by Members: "Community Connections – evidence of commitment to and connections with the community the charity serves.

**The review process: Charities**

12. As part of the review, the charities have been written to and asked for information on:
- (a) Their charitable objects, including obtaining a copy of their governing document
  - (b) What they do – e.g. grant giving.
  - (c) Who their beneficiaries are
  - (d) Any specific qualifications to be a trustee
  - (e) How often they meet
  - (f) How long the meetings last
  - (g) What work is required outside of meetings (to establish the time commitment required.
  - (h) Consulting existing trustees on what they see the key skills, experience and knowledge which the charity requires the trustees individually or collectively to have for it to function optimally.
13. A new application form was produced, piloted for the Borough Market appointments in January 2003, reviewed by the panel in March, and subsequently amended by officers. The amended form was circulated to panel members for comments, and has been used for the latest round of appointments. A copy of the form has been used for applications, and is included in the information pack.
14. The form includes:
- (a) a checklist of eligibility criteria and a declaration of eligibility.
  - (b) a question to elicit conflicts of interest
  - (c) questions which elicit information to demonstrate that the prospective trustees fulfil the job description and/or meet the seven "C"s of public appointments (which have become the criteria for appointment), with the addition of an eighth "C" added by Members – that of Commitment to and Connections with the Community the Charity Serves.
15. An advertisement appeared in Southwark News in November 2002, with limited response. An article appeared in Southwark Life July 2003 edition explaining what

trustees do and asking for volunteers, which has produced more response. A copy of the article is at **Appendix 2**.

16. A reference form has been produced to enable referees to provide information using the same criteria applied by the panel, with referees having the option of writing a letter instead. Copies of the completed form is **attached at Appendix x**.

### **Appointment of School Governors: Changes with the move to Community Councils**

17. The Council, as a Local Education Authority has a right to appoint governors to the governing bodies of all categories of maintained school. Under Schedule 9 of the School Standards and Framework Act 1998 ("the SSFA"), the number of such governors will range from a minimum of one in voluntary aided primary schools up to five in community schools.
18. There is a distinction between the appointment of LEA governors, in line with Schedule 9 of the SSFA and the appointment by the LEA of additional governors to schools with serious weaknesses, in special measures, or otherwise the subject of LEA intervention. The Strategic Director of Education and Culture makes such appointments where appropriate.
19. In making appointments the Council is required to have regard to the Code of Practice on LEA - School Relations issued by the Department for Education and Skills. The code recognises that the highest priority for a Local Education Authority is to promote high standards of education. Authorities can support schools by appointing as LEA governors those who are best qualified to help schools improve. In making appointments to particular schools, the Council should have regard to the skills and experience of which those schools have the greatest need, and to candidates' support for the schools' ethos and mission. The Code states that it is good practice to advertise for candidates highlighting the skills and experience required, and that the Council should publish the process and criteria by which they identify candidates for appointments. Once appointed, School Governors' priority is to contribute to raising standards at the school; they cannot be mandated by the Council to take a particular line.
20. Community Councils have been introduced and have the power to make appointments to primary schools. This necessitated a new process. The attached procedure note at **Appendix 3** sets out the procedure which has been followed since the inception of Community Councils. Members of the Voluntary Bodies Appointments Panel were asked to endorse the procedures.

### **Effect of Proposals on those affected/ Equal Opportunities Implications.**

21. The Race Relations Act 1976 (as amended) requires the Council to make arrangements to promote equality of opportunity and to eliminate unlawful discrimination. To further this aim, appointments processes should be open and transparent to engender equality of opportunity, and trustees should be appointed on merit.
22. Advertisements and the appointments pack for charities include a phrase similar to "Trustees can come from all walks of life and varied backgrounds. The Council promotes equality of opportunity, and hopes to be able to appoint trustees who reflect the diverse communities served by the charities."

## Resource implications

23. Charity Trustees have extensive responsibilities for the financial management of their trusts in accordance with the Trust legislation.
24. School Governors have powers relating to the management of resources devolved to schools.
25. The duties to make appointments to charities do not come with any funding. Under the Members Services Best Value Review, the work of supporting the Voluntary Bodies Appointments Panel, and Borough Market and Corporation of Wardens appointments meetings moved to the Executive/Council Team. No extra resources were have been allocated to the team to carry out the work, and it is fitted in over and above its existing workloads, which take priority.

## Consultation

26. Individual charities have been contacted for information about their needs. Members of the previous Panel were consulted on the form, and prior to that on the Advertisement in Southwark News.
27. The procedure for appointing school governors was developed in discussion between officers from the Governor Development Service, Community Councils team and the Borough Solicitors Office. The Governor Development Service maintains close links with schools.

## Legal Implications

14. Legal Issues are covered in the body of the report.

## 15. BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Trust Deeds of Charities, BSO/CSU Correspondence with Charities	Borough Solicitor's Office or Constitutional Support Unit Town Hall Peckham Road SE5 8UB	Rachel Prosser 020 7525 7678 or Everton Roberts 020 7525 7221

## APPENDIX A

### Audit Trail

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<b>Report Author</b>	Rachel Prosser, Senior Legal Officer (Corporate)
<b>Version</b>	Draft 1

<b>Dated</b>	27 August 2003	
<b>Key Decision?</b>	No – not an executive function.	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Borough Solicitor & Secretary	N/A	N/A
<b>Executive Member (Community Support)</b>	No	No
<b>Date final report sent to Constitutional Support Services</b>	19 August 2003	