

EDUCATION, LEARNING AND LEISURE COMMITTEE – 23 MAY 2013

NOMINATIONS TO OUTSIDE BODIES

1 Recommendations

The Committee is recommended to:

- 1.1 To recommend to Full Council whether Elected Members should be nominated to the Scottish Lighthouse Museum after paying due regard to the information given in Appendix A.
- 1.2 In the event that the committee agrees to recommend to Full Council that Elected Members should be so nominated, to further recommend to Full Council (a) the number of nominations to be made; (b) the capacity in which nominations should be made; and (c) the Elected Members to be nominated.

2 Background / Discussion

- 2.1 At the meeting of Full Council on 17 January 2013, a recommendation was made to nominate councillors to the Scottish Lighthouse Museum in an advisory capacity. At that time, no criteria form had been received from this organisation.
- 2.2 A criteria form for the Scottish Lighthouse Museum was subsequently received and scored which disclosed that the organisation was requesting nominations be made in a decision-making capacity. Due to this change in circumstances, the Education, Learning and Leisure Committee is asked to recommend to Full Council whether Elected Members should be nominated to the Scottish Lighthouse Museum and, if so, to further recommend the number of nominations to be made; the capacity in which nominations should be made; and which Elected Members should be nominated.
- 2.3 Scottish Lighthouse Museum is a Company Limited by Guarantee. Aberdeenshire Council is a member of Scottish Lighthouse Museum. The Articles of Association provide that Aberdeenshire Council shall, whilst it remains a member of the company, be entitled from time to time to appoint as a director of the company any two persons and may determine the period for which such persons are to hold such office and to remove from office any person so appointed and to appoint another person in his place. (Councillors Davidson and Topping are currently directors of the company.)
- 2.4 The Articles of Association provide that there shall be at least two members of the company. As Aberdeenshire Council (as a member of the company) is bound by the Articles of Association, there is an argument that were it to resign and this brought the number of members below two, it would breach the terms of the Articles of Association.

- 2.5 Where a councillor takes on a role as a **decision-maker** for an Outside Body, the councillor becomes a member of that organisation (which is separate from his role as a councillor), can make decisions on behalf of the organisation and carries liability for those decisions. Where the role taken on is one of **advisor/observer**, the councillor does not become a member of the outside body and simply observes proceedings or provides advice on what the Council's position is on a particular issue. Members should be aware that when they take on an advisory/observational role, they must be careful to limit their remit accordingly and not inadvertently influence policy or management decisions of the Outside Body, otherwise they may be treated as decision-makers for the organisation and thereby take on liability for the decisions made.
- 2.6 The criteria form for the Scottish Lighthouse Museum has been received and scored. Information taken from the criteria form completed on behalf of the Scottish Lighthouse Museum is found in Appendix A to this report and includes information on the type of organisation, the number of Elected Members requested as well as details relating to accountability, public access, internal governance and other general considerations.
- 2.7 The Head of Legal and Governance will ensure that as far as possible preliminary checks are carried out to ensure the governance and insurance details provided in the criteria form is correct. Understandably there are limitations on the extent to which this can be done, particularly where insufficient or no information is being provided and also generally speaking on any on-going basis. Going ahead, it will be for each councillor to check compliance throughout their term of involvement.
- 2.8 The Head of Finance and the Monitoring Officer within Corporate Services have been consulted on the terms of this report.

3 Equalities, Staffing and Financial Implications

- 3.1 An equality impact assessment is not required because the recommendations contained within this report will not have a detrimental impact on the protected characteristics of any particular individuals.
- 3.2 There are no staffing or financial implications arising directly as a result of this report. There are significant staffing resources being applied to the Confident Governance Project from across the Council in particular from within Legal and Governance.

Christine Gore

Director of Corporate Services

Report prepared by:- Martin Ingram, Principal Solicitor (Governance)

Date 25 April 2013

References Karen Wiles/Confident Governance.doc

APPENDIX A

		Scottish Lighthouse Museum
	Type of Organisation	Company Limited by Guarantee
	Number of elected members requested	2
	Capacity	Decision Making Capacity
Questions		
A1	Does the organisation conform to the council's strategic aims and purposes?	Yes
C9	Are there arrangements in place for the Cllr to choose to exit the organisation?	Yes
C11	Does the organisation have adequate rules in place to govern the way its finances are handled?	Yes
C12	Has the organisation adequate liability insurance cover in place in respect of the undernoted heads of claim and will these be renewed annually?	Yes
(i)	directors /trustees/ executives / officials indemnity	Yes
(ii)	public liability insurance	Yes
(iii)	employers	Yes
(iv)	defamation (libel & slander)	Yes
(v)	professional negligence/ indemnity	Yes
C13	Does the organisation have any outstanding disputes or liabilities which are likely to impact on its future viability or solvency?	No
E3	Has the organisation met within the last year?	Yes
E5	Is the appointment a requirement of the trust deed?	No
E6	Has there been a Cllr at the meetings of the organisation within the last year?	Yes
E7	Does the average time commitment expected per month exceed 4 hours?	No
E11	Is councillor involvement the best or only way of achieving the aims of the organisation?	Yes
	General Score	69/99