

Title of meeting:	Cabinet
Date of meeting:	28 November 2023
Subject:	Appointment to Outside Organisation - Elementary Education Foundation
Report by:	James Harris, Senior Local Democracy Officer
Wards affected:	N/A
Key decision:	No
Full Council decision:	No

1. Purpose of report

- 1.1. To agree to appoint a member to the current vacancy on the Elementary Education Foundation.

2. Recommendation

- 2.1 RECOMMENDED that Councillor Darren Sanders be appointed as a trustee of the Elementary Education Foundation.**

3. Background

- 3.1. The Elementary Education Foundation is a charity which originated out of the Elementary Education Act 1870. Prior to then, there were various organisations in the city that provided education to the children of Portsmouth but after the 1870 Act the responsibility for education passed to the local authority.
- 3.2. The trust was established to hold the land of the education providers that existed prior to the 1870 Act and the Council acts as trustee for the foundation.
- 3.3. Appointees to the EEF will act as trustee and will need to devote sufficient time to discharge their legal obligations as trustees.
- 3.4. Due to the potential for conflicts of interest between the activities of the EEF and the City Council, careful consideration should be given when appointing cabinet members, to ensure that there will be a cabinet member available to take decisions on behalf of the council when a conflict arises. It would therefore be advisable to not appoint one of the Leader or the Deputy Leader of the Council to this board.



3.5. The current trustees on the Elementary Education Foundation are:

- Councillor Gerald Vernon-Jackson
- Councillor Ryan Brent
- Terry Norton

4. **Reasons for recommendations**

4.1. Portsmouth City Council's policy is to support and encourage participation by Councillors and Officers in the activities of outside organisations ("**Outside Bodies**") which further PCC's policies and priorities.

5. **Integrated impact assessment**

5.1. An Integrated Impact Assessment is not necessary, as no new policies are proposed.

6. **City Solicitor comments**

6.1. Nominations to Outside Bodies is subject to Part 4E of the constitution which notes that;

"In making appointments to any outside body or organisation, the Executive collectively or an individual Executive member, should act in accordance with the following rules to ensure that, so far as possible, the political proportionality of the council is maintained"

6.2. Notwithstanding Part 4E, some appointments must be limited to members of the Executive for constitutional reasons (i.e. where they sit on bodies discharging functions or making decisions on behalf of the Council) and therefore in those circumstances Part 4E would not apply.

6.3. The Council nominates and is asked to nominate Councillors and Officers to sit on organisations known as Outside Bodies. This is beneficial to the Council and to the organisations involved as a mechanism for community leadership, partnership working, information sharing and support for the Council's and the organisation's priorities.

6.4. The Council's current list of Outside Bodies contains a diverse list of approximately 80 organisations which have various functions, purposes and in some cases statutory obligations.

6.5. The Council's role in relation to the Outside Bodies therefore varies hugely and has legal ramifications to the Council, the Outside Bodies themselves and those Councillors and Officers who are nominated to those organisations.

6.6. There are a number of Outside Bodies to whom the Council appoints, and they can be broadly (although not exclusively) be divided into a number of categories;



Type	Description	Appointments
Council bodies	Not strictly 'Outside Bodies' but a group set up by the Council for various reasons. Examples include; The City of Portsmouth Sports Council; Education Advisory Board; Port Advisory Board; Transport Liaison Group; Standing Advisory Council for Religious Education.	Appointments are in accordance with their own terms of reference.
Statutory appointments	External bodies which the Council is required by statute to appoint to. Examples include; Hampshire Countryside Access Forum; Southern Inshore Fisheries & Conservation Authority; Southern Regional Flood & Coastal Committee.	Appointments to such organisations is ordinarily governed by the relevant statute which established the body.
Joint Committees	Established under the Local Government Act 1972, they ordinarily operate to discharge Council functions. Examples include; Solent Transport Joint Committee, Partnership for South Hampshire; Portchester Crematorium Joint Committee; Project Integra Strategic Board, Building Control Partnership	Appointment to such organisations should be of the executive member with relevant portfolio responsibility, as they are discharging an executive function of the Council
Community Associations	These are organisation usually focused to a particular ward in the city. Examples include; Baffins Community Association; Eastney Area Community Association; Fratton Community Association; Landport Community Association; Milton Village Community Association; Paulsgrove Community Association; Stamshaw & Tipner Community Centre Association; Buckland Community Association.	These are organisations that ordinarily require a link/patronage from the local ward councillor/s. Nominees either observe and represent the Council or can be asked to be a trustee /director of the organisation (which they would undertake in a personal capacity).
Charities/ companies	These are ordinarily local organisations which seek patronage of the Council/Councillors or have a requirement by way of their constitutional documents to invite a nominee from the Council	As separate legal entities, appointments will be governed by the constitution of

	<p>(for example due to historic funding from the Council). Examples include;</p> <p>Aspex Visual Arts Trust; The Lord Mayor of Portsmouth's Coronation Homes; Motiv8; New Theatre Royal Trust; Portsmouth Naval Base Property Trust; Portsmouth Royal Dockyard Historical Trust; Fitzherbert and Moody Charity; Kings Theatre Trust; Mary Rose Trust; Peoples Action Team for Community Harmony Ltd (PATCH); William Shepherd Charity & Elizabeth Mary Claypitt Charity.</p>	<p>the organisations. The Council may not therefore have the right to remove, replace or add nominees. The role the nominee has will generally be determined by the organisation.</p>
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Type of Representation

- 6.7. Appointees can take on a range of roles on Outside Bodies. Nominees must therefore fully understand the role they are being asked to take on as their role may involve them taking on personal liability for their actions for which the Council will have no responsibility. The roles include;

Observer / Advisor	The appointee will be there to represent the Council but will have no responsibility for decision making at the Outside Body
Director / Trustee	The appointee will be responsible for making decision for the Outside Body. As a director or trustee, individuals are personally responsible for the decisions they take.
Committee Member	Representing the Council and taking decisions on behalf of the Council at those meetings. For this reason, such nominees should be cabinet members.

Risks

- 6.1. Nominees are not, in the main, required to report back to Full Council, Cabinet or the relevant portfolio holders or directorate/officer. This can result in the relevant nominee not being an effective conduit of the Council's views to the organisation and also not feeding back relevant information back to the Council.
- 6.2. In addition, where the Council is nominating a representative to an Outside Body, the Council should be confident that the nominee will act appropriately and represent the Council to the high standards the Council expects. For example, where nominees are elected Councillors or employed Council officers, they are subject to either the Officer or Councillor Code of Conduct as appropriate and any mis-conduct can be managed through those codes.
- 6.3. The risk of appointing members of the public to an Outside body is that the Council will have no method of control of the individual and therefore such an appointment could pose reputation risk to the Council in the event of mis-conduct. That being said, there is nothing in the Council's constitution or in public law which would prevent such appointments, and it is for Cabinet to assure itself of the suitability of any such appointments. It is also noted for completeness that members of the

public would not benefit from any Council insurance or indemnity which may be available to a councillor or officer.

- 6.4. Nominees also need to be aware of the potential for conflicts of interest between their role as Councillors and their role with the Outside Body. Executive Councillors in particular (i.e. those responsible for executive decisions by the Council) should be particularly conscious of the risk of conflict where they may be asked to make a decision which impacts on the relevant Outside Body.
- 6.5. Nominees will need to consider whether their position with the Outside Body should be noted in their declaration of interests. Further advice should be sought from the City Solicitor where required.

7. Director of Finance's comments

- 7.1. There are no finance implications arising from this report.

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Signed by: Natasha Edmunds, Director of Corporate Services

Appendices:

None.

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
None.	

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: