

PART 5 – Codes and Protocols

OUTSIDE BODY APPOINTMENTS

In May each year, members are appointed by the council to serve on a range of outside bodies.

These include voluntary organisations, local government associations and companies.

In some cases, the persons appointed will be council representatives, i.e. they will be expected to represent the council's views at meetings, and look after the council's interests.

On other bodies, members will be nominees, i.e., their main responsibility will be to the organisation to which they have been appointed. In some cases, there will be a link between the activities of the organisation and those of the council. In such cases, the member's knowledge of council affairs will be useful, but the affairs of the outside body must take priority when the member is acting as a member of that body.

In all cases Members should:

- adhere to the rules, constitution and framework set by the outside body
- report back, where appropriate, to the council or relevant committee
- behave ethically and follow, as far as applicable, the Code of Conduct
- take an active and informed role in the management of the outside body's affairs

Members should not:

- represent the political party to which members owe their political loyalty
- be there in name only and merely turn up to meetings

The appointment list splits outside organisations into three categories:

- those where appointees are regarded as council representatives
- those that have links with council activities but where the appointees are nominees
- those where the council is merely asked to appoint a nominee and has no further contact with the organisation

The council is currently working more and more through outside organisations – with 'partners'. Such partnerships can either be companies (charitable or non-charitable) or unincorporated associations.

Companies

Companies are regulated by the Companies Acts and by their own constitutional documents (i.e. the articles and memorandum of association). A director of a company must act in the best interests of the company and must use reasonable care and skill.

Charities

The managers of a charity are called 'the trustees'. The charity will be regulated by its constitutional documents (i.e. the trust deed). A trustee must act in the best interests of the charity and must use reasonable care and skill.

Unincorporated associations - such as a management committee, residents association

Groups that are neither companies nor charities fall within this category. The rules for the group will be set out in a constitution, which normally provides for the appointment of a management committee. The members of the management committee are responsible for the acts of the group.

Joint Committees

Two or more Councils can form a joint committee to exercise any of their functions

Only Councillors who are Members of the local authorities who have come together to form the joint committee can sit on that joint committee. The Joint Committee will have governance documents which will set out its procedure rules and will confirm what powers the constituent councils have delegated to it.

Members of a joint committee who act in good faith, within their powers have a statutory immunity against personal liability.

There are though a variety of other external organisations which a Councillor could be appointed to where this statutory immunity does not arise.

Governor of a maintained school

Governing bodies are corporate, charitable bodies and, because of this, individual governors are generally protected from personal liability as a result of the governing body's decisions and actions. Provided they act honestly, reasonably and in good faith, any liability will fall on the governing body even if it has exceeded its powers, rather than on individual members

Reducing the risk

Members who are invited to sit on an outside body need to ensure that they understand what role they are being asked to perform. They need to be sure they can devote enough time to the role to ensure that the body's activities are effectively managed.

Outside bodies will cover many potential liabilities through insurance. It is worth asking the question whether the organisation has public liability insurance and indemnity insurance for the directors, management committee or trustees and, if not, whether the cost of putting these in place justifies the peace of mind achieved.

The Council can also indemnify a Member against personal liabilities arising from an outside body appointment. Indemnities cannot extend to cover criminal offences; or liabilities arising from fraud, or other deliberate wrongdoing or recklessness on the part of that member and cannot cover defamation actions.