

Leaflet for Members

Appointments to Outside Bodies: The Councillor's Role

As a Councillor you may be nominated by your Council to sit on various types of outside bodies such as community organisations, housing associations and local companies.



An appointment to an outside body doesn't necessarily mean that you will be representing the council's interest there. This can lead to conflicts of interests between your role as a Councillor and your representative role on the outside body.

This leaflet and the more detailed Members' Toolkit document which accompanies it, is designed to try and help you understand your role and resolve any conflicts.

Getting started

Your Council may have adopted a policy on involvement in partnerships and outside bodies explaining the benefits that flow from the involvement. There will always be a formal resolution (whether of a committee, by a member or officer) of the appointment. You should discuss the reason for your appointment with the organisation and with the relevant officer in the Council.

Your Council may also have adopted a policy on how and when reports are to be presented on what the organisation is doing. You should ensure that you know what is expected of you in terms of reporting back. However, you should also ensure that any reports that you present to the Council do not breach any duty of confidentiality you may have to the outside body.

General Duties of a Representative on an Outside Body

Being a Council representative on an outside body does not necessarily mean that you will be representing the Council's interests on the organisation.

You will be expected to act in the interests of the outside body and exercise independent judgement in making decisions, in accordance with your duty of care to the body. You may have regard to the interests of the Council, but this should not be the overriding consideration. In some cases (e.g. if you are the director of a company or a trustee of a charity – see below) voting in the Council's interests could be a breach of your duty to the body.

Particular Duties and Responsibilities of Directors and Trustees

If you are appointed a director of a company then you must always act in the best interests of the company. The main duties of a director are:

- to act honestly and in good faith and in the best interests of the company as a whole;
- not to make a personal profit and to take proper care of the company's assets;
- to attend board meetings and follow the rules on the declaration of interests;
- to exercise reasonable skill and care (a subjective test based upon the individual's own knowledge and experience) and act with due diligence;
- to comply with statutory obligations imposed by the Companies Acts, other legislation and any procedural rules set out in the constitution.

The duties of a trustee of a charity are generally the same as for a director but in addition you must make sure the trust acts in accordance with its aims and objectives and you should make sure that you have a clear understanding of what these are (there is normally a trust deed which sets these out).

Managing Conflicts of Interest

The purposes of the outside body and what it wants to do will often coincide with your Council's interests and so conflicts may be rare. However, they may arise in some circumstances, for example, if the organisation:

- is not complying with the terms of a Council funding agreement
- wishes to appeal against a decision of the Council
- wishes to pursue activities which would conflict with Council policy.

You will need to manage the conflicts that will arise appropriately (for example by withdrawing from certain decisions or, in circumstances where the conflict may be so great, by resigning from the company or body.)

Similarly, the Council may conclude that the purpose of having a representative on the body has been fulfilled and decide to terminate the appointment. Or in some instances the Council may choose to change its representation on the outside body.

Declarations of Interest and Duties of Confidentiality

You should ensure that details of your appointment onto the outside body are included on the register of interests kept by the Monitoring Officer. The outside body may also have its own register of interest, which you should complete.

When the outside body considers issues related to your Council you should declare a personal interest. The specific rules adopted by each body will vary and you should ask for advice and guidance from the secretary of the organisation and/or the Monitoring Officer, as appropriate.

If the outside body has a code of conduct you should observe it – if it does not you should follow the Members' Code of Conduct.

When the Council considers issues relating to or affecting the outside body you must declare a personal interest in accordance with the Members' Code of Conduct. If this is your only interest, it will not be considered a prejudicial interest unless the matter relates to an approval, consent, licence, permission or registration and therefore you will be allowed to take part in the debate and vote.

Confidential information must be treated with care and if you have any doubt over the status of any information then you should keep it confidential and check with the relevant officer. You must always observe duties of confidentiality – both to the Council and the outside body. Deliberate leaking or disclosing of confidential information will be a breach of the Members' Code of Conduct.

Allowances and expenses

Your Council may have authorised attendance at meetings of outside bodies as an approved duty for members which attracts travelling and/or subsistence allowances. Alternatively, any expenses may be defrayed by the body itself, in accordance with its own rules. If the body does pay expenses, you may not claim from the Council. For further information on allowances contact the relevant officer in the Council.

Indemnity and insurance

In some instances members who represent the Council on outside bodies may carry personal liability for decisions they make and actions which they take in their representative capacity. This is most likely to arise if you have been appointed as director of a company or a trustee of a charity or you hold an office on the management board of an organisation. The outside body may have insurance to cover your liability in these cases (sometimes referred to as directors' liability insurance) and you should check with the secretary of the organisation. Alternatively, your Council may have agreed to provide an indemnity to cover any liabilities incurred by members acting in a representative capacity. The Monitoring Officer will be able to provide further information on this.

If you are unsure about your role or how to carry it out please contact the Monitoring Officer

This document is based on the document *Members' Toolkit Appointments to Outside Bodies: The Councillors' Roles – General Guidance and Potential Pitfalls and Conflicts* produced by Nottinghamshire County Council and published by ACSeS and *Members on Outside Bodies* Briefing WLGA

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