

# **REPRESENTATION ON OUTSIDE BODIES POLICY**

## **INTRODUCTION AND PURPOSE OF REPRESENTATION**

1. The council has a strong commitment to partnership working with many other bodies. The working takes many forms. The Council may give financial or other support to an organisation. It may commission services from the organisation or it may be a partnership based on a dialogue and consultation.
2. The Council has reviewed carefully how its partnership arrangements will work and has decided on those bodies where direct representation is appropriate. This decision has been made in the context that it is a matter for organisations to state what type of representation they require or how many representatives (this is often prescribed in their own rules).
3. Representation serves many purposes, including the following:
  - enable the Council to contribute to, and influence, the decision making of the organisation;
  - enable the organisation to have direct information about Council policy and practice;
  - provide, through particular appointees, a local perspective;
  - satisfy a legal requirement for the Council to serve on the body;
  - provide an essential lead focus on behalf of the Council;
  - facilitate the objectives of the Council

## **THE COUNCIL'S PROCESS OF APPOINTMENT**

4. Most appointments are made for the life of the Council (i.e. 4 years). Sometimes, representatives are appointed for different periods because the constitution of the body or the Council requires this.
5. Where possible, for bodies appointed by Council, the total number of places is allocated to each political group on the Council in proportion to the number of Council seats held.
6. Currently, Group Leaders will consider appointments for those bodies to whom Council appoints, and the Leader will consider Cabinet appointments.
7. Where a vacancy occurs in representation, the political group which first put forward the name will be asked to name a replacement. This will be notified to the organisation.
8. Once the Council has agreed its representation, the Democratic Services Manager will inform the representative and the organisation of the appointment or nomination made.

## **THE DIFFERENT TYPES OF BODY**

9. There are many types of body that request or require Council representation or on which the Council chooses to appoint representatives. The main ones are as follows:

- other statutory services providers;
  - voluntary sector groups (whether funded by the Council or not)
  - local government associations and affiliated bodies;
  - charities;
  - companies
  - trusts
  - non-elected, government appointed bodies
  - pressure groups of local authorities;
  - joint meetings of local authorities;
  - multi-agency consultatives; and
  - panels from which others (usually Government Departments) select members.
10. In some cases, the Council will wish to be represented as a major financial stakeholder in the activities of the organisation. For others, the relationship will be as one of a number of working partners whose collective input produces the outcomes of the organisation.
11. The following section explains the responsibilities that the representative performs in the types of organisation.

### **THE LIABILITIES AND RESPONSIBILITIES OF THE REPRESENTATIVE.**

12. The legal status of an organisation can affect the personal position of the Council's representatives on it. Some examples are given below to illustrate this.
13. **Voluntary organisation/Societies:** These have no legal status and therefore cannot be sued. Therefore, members of their management committees could find themselves bearing some personal liability for any outstanding debts, in the event of the organisation being wound up. In some instances, there could also be some contractual liability falling on the individual members of the management committee.
14. It should be pointed out that anyone seeking to recover damages from an individual member of the management committee would have to prove that the individual was at fault. Damages for the actions of an organisation cannot be recovered from the individual members of the management committee unless individual fault is proved.
15. Members of the management committee of an organisation are liable to criminal liability in certain circumstances. They have a responsibility therefore to ensure that any activities of the organisation are conducted in accordance with the law, and that illegal acts are not knowingly permitted.
16. **Trusts:** As a Trustee or Director, Council representatives will have the same responsibilities and obligations as other Trustee/Directors. These will guide Council representatives in their approach to the role and will be explained to Council representatives by the body concerned.
17. The whole area of the responsibilities of Trustee and Directors is a complex one, particularly in the legal sense. The guidance in this publication can therefore only be very general.
18. It is very important that the emphasis of your role should be that of representing the Council. Council representatives do however owe a duty to the Trust or Company.

This can place Council representatives in a position where there may be conflict of interest with those of the Council. In many situations, this will be obvious. In others, less so.

19. Council representatives are invited to discuss particular situations with the Head of Legal & Democratic Services if they are unsure about their position.
20. Remember, Council representatives are placed on the body as a representative of the Council. Council representatives should not take on additional responsibilities because the Trust or Company wants to use any specialist knowledge they may have.
21. Although at first glance the information above may seem discouraging, the Council is very positive about supporting its representatives in all these matters, providing they discharge their duties in a responsible manner to the best of their abilities. It is as well to record that the incidence of personal liability issues is very small.
22. There is a separate section below which explains the Council's indemnity and insurance provisions. This should provide a certain level of reassurance to representatives. There remains, however, a fundamental responsibility of the individual representative to ensure that he or she seeks advice on matters that are not clear.

### **INDEMNITY AND INSURANCE PROVISIONS**

23. Members are insured when they are acting in an official capacity on behalf of the Authority. This insurance operates through a number of policies including Official Indemnity, Public Liability, Libel or Slander and Personnel Accident. In this context, members are expected to take reasonable care and due diligence in what they say or do.
24. When representing the Authority, Members must act in accordance with the Authority's decisions and policies, and in its best interests. Individual Members have no powers to take decisions or make statements that will bind the Authority to a particular course of action.
25. Where Members are appointed to an organisation which has a legal existence in its own right, then the duty is to that body and not the Authority. In this instance, the Member must make decisions which he or she considers to be in the interest of the body concerned. Members cannot be covered by the Authority's insurance and it is recommended that they should take steps to discover the extent of their liability and any insurance arrangements the body may have. Members may wish to take steps to limit their liability or arrange their own insurance cover.
26. If Members have any questions as to their liability or insurance cover then they should contact the Head of Legal & Democratic Services or the Divisional Director – Risk & Assurance.

### **DECLARATIONS OF INTEREST**

27. The basic advice to Councillor representatives on outside bodies is to observe the provisions of the National Code of Local Government Conduct, in the same way as it would apply in respect of other responsibilities as a Councillor.
28. If Council representatives need informal advice about their personal position, this is available from the Head of Legal & Democratic Services. It should be borne in mind however that this will constitute advice only, and representatives will still need to make a judgement about the interests they may have. The golden rule is – if in doubt, declare!

### **THE TIME COMMITMENT**

29. It is not possible to be specific in all cases about time commitment involved in serving on outside bodies. This depends on a number of factors including:
- The extent to which the representative chooses to become involved in the affairs of the organisation;
  - The nature of the duties performed which may require specific time commitments over a given period;
  - Whether the representative is appointed to be an officer of the body concerned.
30. The Democratic Services Manager will aim to advise prospective representatives of the likely minimum commitment required before they allow their name to be put forward, or may arrange for the organisation or body to advise more fully about time commitment.
31. Ultimately, it is the responsibility of the individual to make a judgement about the level of initial or developing commitment. If this is proving too onerous, the representative should inform the Democratic Services Manager, or the political group making the appointment, so that the position can be re-examined.

### **WHAT ALLOWANCES ARE PAYABLE?**

32. This will depend upon the nature of the outside body. In a few cases, usually statutory bodies, the organisation will itself pay an allowance to persons who are appointed to it. Where the organisation will cover costs of travel etc, Members are encouraged to claim from that body.
33. Representatives are asked to contact the Democratic Services manager in the event that they are to incur other costs not covered by the above.

### **WHAT THE COUNCIL EXPECTS OF ITS REPRESENTATIVES**

34. There is no single answer to the question; it will depend upon the circumstances of the appointment. Generally however, those who represent the Council have a responsibility.
- To look after the interests of the Council;
  - To promote the Council and its achievements;
  - To ensure that Council funding is being used wisely and properly;

- To assist in the process of consultation by the Council;
  - To explain Council policy.
35. Particularly with regard to this last point, it is recognised that in some circumstances, representatives will be expected to explain policies for which they or their political group did not vote, but for which there was majority support on the Council.
36. In representing the Council's position, the representative is permitted to give the position of their political group but not so as to undermine the fact that there exists a Council policy on the matter which may be at variance with that political view.
37. The need for a Council position to be stated does not apply when the appointment is to a body or committee that considers personal casework. In such cases, the representative is expected to use personal judgement based on the evidence presented. To do otherwise would be inappropriate and contrary to the purpose of such appointments.
38. The representative will be in a position only to make commitments on behalf of the Council where there is a Council policy in place. In other matters, the representative is expected to bring back views from the organisation.
39. The Council expects all of its representatives to abide by the Council's equalities policies in terms of their behaviour towards others and in their style of communication. The actions of representatives will reflect good practice on equality issues; advice on which is available from the Council's Officers.
40. The above is a general guide only, in view of the wide range of bodies involved. It is not possible or appropriate for definitive advice to be given for each circumstance. It is a matter for each representative to determine how much to approach the role and to decide how they, their political group, and the Council would expect them to do so.

#### **WHAT THE OUTSIDE BODY MAY EXPECT OF THE REPRESENTATIVE**

41. For many organisations, the purpose of Council representation is to provide a focus for influencing Council decisions about the organisation and for obtaining information about the Council's policies in relation to the work of the organisation.
42. The organisation may expect a degree of knowledge from the Council's representative. In the context, the representative may need to seek help and advice from the Council's officers or from his or her political group colleagues. This should be readily available.
43. As mentioned in previous sections, an outside body has a right to expect all its members to contribute to their objectives. In this respect, Council representatives owe a duty to the organisation to act in their interests.
44. It is important to remember that, despite this duty, Council representatives are not committed to voting in the Council Chamber in a way that the outside body would want them to. They may have a duty to represent the body's position to other Councillors but that duty does not fetter their responsibility as a Councillor to vote in support of the best decision, based on all the relevant information at the time.
45. A clear example of this is in the area of financial assistance. While Council representatives may hear from the body a strong case in support of their funding

application, and may amplify that case to Cabinet, as a Councillor they will need to consider the wider picture, including the overall level of finance compared with the number of eligible bids.

### **WHAT COUNCIL REPRESENTATIVES MAY EXPECT FROM THE COUNCIL**

46. Council representatives are entitled to expect from the Council full support for the actions they take as its representative, as long as those actions are reasonable and lawful. By being appointed as its representative, the Council is entrusting councillors with the responsibility to represent its position and to assist in fostering links between it and the organisation.
47. Council representatives are entitled to information about the Council's activities in the service areas that are of interest to the body concerned. This will be on the basis of information requested by the representative. The Council will ensure their representatives are adequately briefed on major issues – see below.
48. Internal arrangements will be put in place to ensure that officers in the Council are aware of relevant appointments and the potential need to call on certain information in that capacity.
49. There is an expectation that the outside body will provide any training/briefings specific to their organisation, if appropriate.
50. The Council will be sympathetic to extra training needs of its representatives in terms of service information and in request of personal clarification of roles and responsibilities within the context of reduced budgets. Requests for such training should be made direct to the Democratic Services Manager.

### **REPORTING BACK TO THE COUNCIL**

51. This has not happened in the past with any degree of regularity but is an area which could be developed. It is important that the Council receives feedback from its representatives on the work of other partners in the community, as well as on difficulties with regard to finance and other matters affecting the operational relationship. Equally, changes in perceptions, policies and practices are important information that the Council needs to know about, as well as information about whether the organisation is continuing to serve its purpose. Comments on the Council's services are also helpful to the service review and planning process.
52. Representation is not the only way in which the feedback is likely to come to the Council. However, it is seen as useful source to verify facts and to act as an early advice channel for the Council.
53. Council representatives are NOT expected to produce a full report after each attendance. All that the Council requires is that they supply the Democratic Services Manager with an email of the key issues that they feel are important to be deposited. The frequency with which this information is offered is for the individual to determine; however, a half yearly submission would seem appropriate.

### **CONFIDENTIALITY**

54. There may be occasions when a representative is party to information which the body asks to be kept confidential. In these circumstances, the general rule is that Council representatives must respect the confidentiality placed upon the information, which is the property of the body concerned. For example, the information may be about an individual or about clients of a Trust or Company. Not to do so could prejudice the relationship between the Council and the body, or indeed damage the confidence that the body has place in its members.
55. If Council representatives are in any doubt about their position on matters of confidentiality, they should seek the advice of the Head of Legal Services or the Democratic Services Manager.

### **CESSATION OF MEMBERSHIP AS A COUNCIL REPRESENTATIVE**

56. If Council representatives wish to resign from an appointment, there are a number of ways this can be done, depending upon the basis of appointment in the first place. Generally, an e-mail to the Democratic Services Manager informing her/him of the wish to resign and giving the date this is to take effect should suffice, or ask the Group Assistant to do so on the councillor's behalf. She/he will then discuss with the nominating political group (if appropriate) the submission of a replacement name. The organisation and the Council will then be informed.
57. If the appointment is to a Panel of persons from whom the Government or other agencies appoints representatives, the resignation may proceed in the matter described above. It may not be necessary for any further action to be taken by the Council to appoint a replacement, especially if the complement of Panel members is already large.
58. In most cases, the appointment applies for the period of a Council term (i.e. 4years). There are exceptions where the term of office is related to the constitution of the body concerned. In these cases, the constitution will also have to specify the arrangements that follow a resignation.
59. If the representative is a Councillor and that person ceases to remain a Councillor, then the Council must decide whether it wishes to continue to be represented by that person on the relevant body. In some cases, it will have no choice if the period of office is specified in statute and thereby in the constitution of the body concerned. It is a matter for the individual in such circumstances to resign.