

Councillor Representation on Outside Bodies**Appointment**

Councillors are appointed to a number of outside bodies at the annual meeting of the Council. Many of the outside bodies support and advance the broad objectives of the authority. Sometimes the authority itself initiates the appointment, and other times, it is the organisation which asks the authority to put forward a nominee.

EDDC's Partnership Policy encourages effective partnership working wherever appropriate to help deliver the Council's goals and overcome constraints. The Policy aims to ensure that the Council's time is spent productively and effectively.

When a councillor is appointed to an outside body, they act on behalf of that body, and may participate fully in the activities.

Liability

Councillors of local authorities can incur personal, civil and criminal liability as a result of their actions carried out on behalf of an outside body. However, councillors enjoy statutory immunity from civil liability where they act within the powers of the authority, with good faith and without negligence. Where the outside body is not itself a local authority, this statutory immunity does not apply, nor does it apply where the councillor goes beyond the powers of the authority or acts in bad faith or negligently. Therefore the Council has provided an indemnity which will protect the position of councillors on outside bodies in most situations.

The basic position is therefore that where a councillor on an outside body is acting in good faith, not fraudulently, criminally or out of malice, nor for an improper motive nor as a deliberate or reckless act of wrongdoing, the councillor indemnity will normally apply.

All councillors are recommended to make sure that when they take up their appointment with the outside body they have access to the key documents regulating the organisation such as its constitution or terms of reference since these will set out what the body can and cannot do.

(For full details on Indemnity, please refer to the Standards Committee report considered on 28 September 2005).

Indemnity

The Council has agreed to indemnify a councillor it has appointed to a position on an outside body where the councillor has suffered loss as a result of actions on that outside body and the councillor is on the outside body as a formal council nominee under the Indemnity to Officers and Members Order 2004. The councillor must have reasonably believed that the action s/he took was within powers of the outside body. The indemnity does not extend to a councillor who commits a criminal offence, fraud or other deliberate wrong-doing. The council also carries insurance which covers councillors for the indemnity given to members.

The Councillor Code of Conduct

All councillors must sign up to the Councillor Code of Conduct when they are elected. East Devon councillors comply with the East Devon code. If the outside body is also a local authority, a councillor must comply with that local authority's Code when dealing with its business.

On any other body which does not have its own Code of Conduct, you must, when acting for the outside body, comply with East Devon's Code of Conduct, except to the extent to which the East Devon code conflicts with the legal requirements of the outside body. You should also enter membership of an outside body in your register of interests.

Councillor Representation on Outside Bodies – Code on Conduct (cont)..

Where you are at a meeting of East Devon Council where a matter is being considered which affects the outside body, you will need to consider whether to declare a personal and/or prejudicial interest under the code. If the decision concerning the outside body might reasonably be regarded as affecting the body's wellbeing or financial position to a greater extent than the majority of council tax payers or inhabitants in your ward, then you will have a personal interest which should be disclosed to the meeting when you address the meeting on the business. For example, if East Devon District Council is considering a grant to the Citizens' Advice Bureau on whose management committee you are the District Council nominee, you should declare that interest.

You will also have to declare a prejudicial interest if a member of the public with knowledge of the relevant facts would reasonably regard your interest as so significant that it is likely to prejudice your judgement at the public interest and the matter in question also affects the body's financial position or the determining of an approval (for example planning permission, consent or licence). Again, the normal rules on prejudicial interests apply and you must declare a prejudicial interest and withdraw from the meeting room while the matter is considered.

If the Council introduces public speaking at all Council meetings, the position will change. A councillor with a prejudicial interest arising out of their appointment on the outside body will then be allowed to make representations, answer questions, and give evidence about the issue before leaving the meeting. The reason for this is to enable councillors on outside bodies, who may have a very good knowledge of that body's operation, to share that knowledge with the rest of the committee, but they must then leave before a decision is made and not improperly influence the outcome.

Annual Review of Outside Bodies

Prior to the annual meeting, a letter is sent to all East Devon district councillors who have been appointed to represent the council on an outside body, asking members to provide information to assess the value of continued representation. Sometimes groups can persist or drift beyond their original remit or cease to be effective and so regular reviews are important. Questions asked include:

- Does the council continue to gain benefit from representation on this outside body?
- Do you think that the council or local residents would be potentially disadvantaged if it ceased to nominate an elected member onto this outside body?

Feedback from Outside Bodies

Currently members on outside bodies are asked to provide feedback and updates on the activities, initiatives and issues of the outside body to help keep all of our members informed. On receipt of this information a note is included in the Knowledge to advise members that it is available in the Members' Area. It has been suggested by members that this reporting process is insufficiently robust and in addition council representatives should report back to the relevant portfolio holder/champion and/or key officer (see attached list showing reporting links) and where appropriate for the matter to be referred to the Scrutiny/Corporate Overview Committee. In addition, Councillors will be encouraged to report on a standard electronic form on the Members' Page of the Council's web site. This will help to ensure that the work of the organisation is aligned to the core values of the Council. This approach will be trialled in the coming council year.

Any Questions?

Please contact either Diana Vernon (Democratic Services Manager) or Rachel Pocock (Head of Legal, Licensing and Democratic Services). Ext. 2741 and Ext 2601.