

Annex 2

Guidance for Members who are appointed by Oxfordshire County Council to serve on Outside Bodies – Draft

Introduction

This guidance is intended to support Councillors appointed to outside bodies and to help understand their responsibilities and liabilities in connection with their involvement with these organisations. This is not a fully comprehensive guide and if further advice is required, Democratic Services or the Council's Monitoring Officer should be contacted.

Oxfordshire County Council appoints Councillors to serve on a wide range of non-statutory organisations outside of the Council, mostly charitable trusts and community associations. Membership can take various forms and Councillors may be involved as either trustees or members or simply as a point of contact between the organisation in question and the Council.

Such involvement is important, ensuring the County Council's involvement and influence, alongside other authorities, as in the Thames Valley Fire Control Service Joint Committee, through Oxfordshire partnerships, and in the local community. Councillors are also able to bring benefits from their experience to the bodies concerned, and in doing so, enhance the profile and reputation of the Council.

Issues to consider before appointment

Appointments deemed to be strategic are made by the Cabinet, but there are other outside body appointments that are the responsibility of the Remuneration Committee or local processes as appropriate.

The Councillor's role, responsibilities, and potential liabilities on an outside body will depend upon the legal nature of that organisation and the capacity in which they have been appointed. Councillors have responsibilities to that body that must be acted upon according to the framework set by the outside body.

If Councillors serve in a decision-making capacity or have a position of general control or management on the outside body, then they owe duties and responsibilities to that body that are separate and distinct from duties owed to the Council. Whilst it is permissible for a Councillor to take account of the Council's interests, Councillors will also make judgements as individuals.

Before accepting an appointment to an outside body, therefore, it would be prudent for Councillors to consider the following points:

- Whether there is likely to be any significant conflict of interest between their role in the organisation and their Council role
- The purpose of the organisation and how this relates to the Council's functions and objectives

- The legal status of the organisation, for example company, trust, charity, unincorporated association, or community association
- Any legal responsibilities attached to the appointment, for instance, as a trustee
- The organisation's constitution, trust deed, memorandum, or articles of association
- Whether they will have voting rights or observer status
- The financial status and funding of the organisation
- The governance and decision-making arrangements
- Members' Code of Conduct
- Any potential liabilities
- Insurance arrangements.

Code of Conduct

The Council has a duty to promote and maintain high standards of conduct by members and co-opted members of the Council and has formally adopted a code of conduct in accordance with the Localism Act 2011.

All elected Oxfordshire County Councillors and co-opted members (referred to jointly as members) must comply with the members' Code of Conduct. The code sets out the ethical framework within which members must conduct themselves and the Council's business. They must observe various rules of conduct, such as registering any employment, business, or financial interests they may have.

A full description of the rules that members must observe, including what financial and other interests are relevant, is set out in the Council's [Constitution: 9.1 Members' Code of Conduct \(including General Principles\) \(pdf format, 40Kb\)](#).

When Councillors act as representatives of the Council on another authority, they must comply with the other authority's Code of Conduct. However, when Councillors act as the Council's representative on any other sort of outside body, they must comply with the Council's Code of Conduct unless it conflicts with the lawful obligations of the other body.

Some outside bodies may require an appointed Councillor to treat their business as confidential, which may create a dilemma for the Councillor and seem contrary to the idea of assisting public accountability. However, a Councillor will be bound by any confidentiality undertaking given.

Interests

If a Councillor is appointed to an outside body, they will have a personal interest in that body and will need to consider their position when they sit on Council, the executive, a Council committee, or any other decision-making body that is considering a matter relating to that body. The outside body's interest may be taken into consideration, but the primary consideration is public interest.

When attending a meeting where there is an item of business that relates to or affects the outside body, the Councillor will need to disclose the interest at the meeting, regardless of whether they were appointed onto the outside body by the Council, or by the outside body itself. This may be a report that will affect that outside body, even if it is not named. For example, the budget setting meeting of Full Council can have implications for Council funding of voluntary organisations.

Councillors who have a Disclosable Pecuniary Interest (DPI) would be required to disclose it and should leave the room during any discussion of, or any vote on that matter.

Similarly, where a matter arises that relates directly to the financial interest or wellbeing of a Councillor's Other Registerable Interest, this must be disclosed, and the Councillor must leave the room and not take part in any discussion or vote on the matter.

Councillors should take advice from the Monitoring Officer if any situation arises where they think they might have a problem with an interest arising from their involvement with the outside body.

Bias

Appointed Councillors need to be aware of the possibility of bias when they are dealing with matters involving an outside body on which they serve.

Any Councillor who is about to take part in a decision, either collectively with other Councillors or independently, must not allow themselves to be unduly influenced by their allegiance to any outside body or individual, nor should they give the impression that they might be influenced by it. Participation in decision making at a Council committee meeting by a Councillor found to have been biased potentially invalidates the decision in the event of legal challenge.

Insurance

Appointed Councillors should establish what, if any, insurance is in place to cover them in their role.

The Council may only indemnify appointed Councillors in certain circumstances as prescribed by [The Local Authorities \(Indemnities for Members and Officers\) Order 2004](#).

Duties and responsibilities of Councillors appointed as a Trustee

There are several useful publications available on the Charity Commissions website at www.charitycommission.gov.uk.

Trustees of a charity are responsible for the control and administration of a charity, and they retain personal liability. Trustees must act in accordance with the terms of the Trust deed. In the case where the charity is also a company, these terms will be

found in the Memorandum and Articles of Association. Other Trusts may be found in the documentation under which the charity was founded, such as a will or deed of gift.

The responsibilities of a Charity Trustee are: -

- to act in accordance with the Trust deed or other governing document.
- to comply with the Charities Act and the Trustee Act 2000.
- ensure information relating to the Trust and Trustees is registered with the Charity Commissioners.
- ensure that accounts are properly maintained and returns are completed and sent.
- not to make a private profit or personal gain from their position.
- take proper expert advice on matters on which they are not competent.

Further Information

If you require further information about the issues raised in the Guidance Note, please contact committeesdemocraticservices@Oxfordshire.gov.uk or Oxfordshire County Council's Monitoring Officer.