

# **Documents which support the Constitution**

## **Part E**

### **PROTOCOL FOR APPOINTMENTS/NOMINATION TO OUTSIDE BODIES**

#### **1. GENERAL**

- 1.1 The Council has produced this protocol to ensure that:
- a) outside bodies to which the Council appoints representative meet the Council's suitability criteria and operate in an appropriate manner; and
  - b) members are aware of their obligations when representing the Council on outside bodies.

#### **2. SUITABILITY OF OUTSIDE BODIES**

- 2.1 Appointment of Members to serve on outside bodies shall be dependent on one or more of the following conditions applying:
- (a) where it is considered necessary to supplement existing communication channels established by members and/or officers;
  - (b) where the Council has a significant interest in the business dealt with by the body in question, e.g. by virtue of owning relevant premises; providing significant resource contributions; being a key partner; or the fact that the work of the Body is of strategic significance to the Council;
  - (c) where Council appointees are legally required;
  - (d) where the boards of registered charities are required to include Council appointed trustees in order to comply with their Articles of Association or Trust Deeds;
  - (e) in other cases, where such representation would bring clearly defined mutual benefits to both the authority and the body in question.

#### **3. SELECTION PROCESS**

- 3.1 Appointments to outside bodies are made by the Selection Committee, after consultation with Members. The majority of these are made in May each year. Any vacancies arising during the remainder of the year will be appointed/nominated by the Chief Executive under the Scheme of Officer Delegations, after consultation with Group Leaders. All appointments are notified to Members by email.
- 3.2 With the exception of the Surrey Heath Local Area Committee, where there are three or more appointments to an outside body and there are more nominations than the available places, the following principle will apply, in that two places will be offered, in the first instance, to the majority group with one or more places being offered to minority groups on the basis of proportionality.

#### **4. BASIS FOR APPOINTMENT**

4.1 Members will be appointed to outside bodies to:

- (a) represent the Council on joint local authority bodies/consortia
- (b) represent the Council by attending meetings of other organisations in a purely advisory capacity to:
  - observe proceedings; and/or
  - facilitate information exchange whilst promoting the interests of the Council as opposed to the body; or
- (c) act as executive members of other organisations (e.g. a director/trustee/voting member of a Management Committee) with an obligation to act in the best interests of the body concerned whilst conducting its business.

4.2. Where the Council makes appointments/nomination on the basis of sub-paragraph (b) and (c) above, officers shall assist, when requested, in seeking to verify whether the organisations concerned have adequate insurance cover in place to protect the Council's appointees.

4.3 Each organisation shall be requested to provide the Council with a clear statement of what is expected of Council appointees, e.g. in terms of the number of meetings to be attended and responsibilities associated with the appointment.

#### **5. THE ROLE OF COUNCIL REPRESENTATIVES**

5.1 The role of Council representatives on outside bodies will vary, but, essentially, will be to:

- help to secure any objectives of the Council in participating in the organisation;
- help the organisation to achieve its aims and objectives, legally, properly and effectively;
- meet any specific legal responsibilities attached to the membership of the organisation;
- safeguard the Council's interests on those organisations which are funded from or through the Council;
- encourage the organisation to adopt sustainable and ethical policies.

5.2 All outside bodies will have requirements placed on them either by statute or by their constitutions. Members should ensure, where possible, that those bodies comply with the requirements thereon.

### 5.3 Members are advised to:

- ask about any specific legal responsibilities attached to membership of the organisation;
- read the constitution of the organisation and be aware of its powers, duties and objectives;
- attend meetings regularly;
- ensure that they receive regular reports on the activities of the organisation and its financial position;
- where the organisation is funded by or through the Council, to obtain a copy of the Annual Report and Accounts to see that the funds have been spent on the agreed objectives; and
- seek advice from the appropriate Council officers in the event of any doubts or concerns about the operation of the organisation.

## 6. REGULATED COMPANIES

- 6.1 Members appointed to positions within companies or industrial and provident societies need to be particularly mindful of the possible impact of Part V of the Local Government and Housing Act 1989 and the Local Authorities (Companies) Order 1995. This legislation provides a framework for regulating local authorities' interests in companies.
- 6.2 The law in this area is particularly complex. However, one of the key issues in determining whether a company is a "regulated company" is the degree of involvement by local authorities or persons "associated" with them. For these purposes "associated" persons are essentially current Councillors and Officers and anyone who has been a Councillor in the past four years, together with certain employees of local authority-controlled companies. There is a danger of the company being regulated if "associated" persons make up 20% or more of the directors/management committee members or shareholders or hold 20% or more of the voting rights.
- 6.3 Council nominees should be vigilant to monitor the proportion of "associated" persons involved with a company. They should immediately notify the Monitoring Officer of any resignation or appointment which might lead to the 20% threshold being reached. This information should be readily available as such matters should always be raised at board/management committee meetings and be properly minuted.

## 7. ANNUAL REPORT BY APPOINTED REPRESENTATIVES

- 7.1 It is considered to be best practice for members to report back to the Council in relation to their service on outside bodies on an annual basis and for this report to be used as part of the assessment by the Council when it considers the merits of continuing to make appointments to the organisations in question. Members serving on outside bodies are asked to make such a report to the Selection Committee at the time it considers the making of these appointments.

## **8. URGENT MATTERS**

- 8.1. Should any issue arise at a meeting of the outside body which is of significance to the Council, the Member representing the Council should urgently raise the issue with the Leader of the Council.

## **9. SUBSTITUTES**

- 9.1 Where substitutes are appointed, it shall be the responsibility of the appointed Member to notify the substitute and the outside body in the event that he/she is unable to attend any meeting.

## **10. MEMBERS' CODE OF CONDUCT**

- 10.1 If a councillor is appointed by the Council to be its representative on an outside body, this interest must be recorded in the Register of Financial and Other Interests, including any position of general control or management of that body. The councillor must disclose at any meeting of the authority, the existence and nature of the interest at the commencement of the consideration of the matter or when the interest becomes apparent. This is a personal rather than a prejudicial interest so the councillor may remain during the discussion and participate in any vote.

## **11. EXPENSES**

- 11.1 Members should normally claim any expenses where possible from the outside body in question. The Selection Committee or the Chief Executive, after consultation with the Group Leaders, is authorised to identify outside bodies, for which the attendance of meetings would be an approved duty for the payment of allowances. Travelling expenses which cannot be recovered from the outside body shall be payable to appointed members for journeys in excess of 3 miles.
- 11.2 If the outside body appoints the Council's representative to be its representative on another body (for example to be the representative of a borough-wide body/committee on a regional body/committee) the travelling and subsistence allowance claims shall be met by the Council in accordance with its allowance scheme.

## **12. INDEMNITY**

- 12.1 Members representing the Council on Outside Bodies will be indemnified by the Council against any loss or damage suffered by the Member arising from his /her action or failure to act as a Member of the Authority.
- 12.2 A copy of the Council's Terms of Indemnity is held by Financial Services and a copy thereof or advice will be provided on request by the Service Accountant - Insurances.

## **13. CHANGES TO OUTSIDE BODY ARRANGEMENTS**

- 13.1 Members are requested to notify the Chief Executive (through Committee Services) in the event that any contact and/or other details change in relation to the outside bodies they serve on.