

- 2.5 In almost all circumstances you will owe a duty to act in the best interests of the outside body. You will have to exercise your own best judgement and you cannot just take instructions from the Council. It is permissible to take account of the Council's wishes, but in any conflict, you must act in the best interests of the outside body. The Council recognises this in appointing or nominating you.
- 2.6 Your responsibilities as a member of an outside body depend on the legal form of that body. The outside body will through its own constitution specify the formal role and responsibilities of the local authority member
- 2.7 Members and officers serving on outside bodies could have personal liability as a direct consequence of their actions in serving on outside bodies. This is particularly so they act in an executive capacity as opposed to a 'non decision making ' role.
- 2.8 Indemnity Insurance – legally the Council cannot insure the liability of another body or organisation. Therefore you need to be satisfied that there is sufficient indemnity insurance cover to protect your position, particularly when serving in an executive capacity on an outside organisation.
- 2.9 There is a need for you to be assured on an annual basis of the existence of insurance, covering public liability, employees' liability; defamation; and Directors and Trustee liability.

2.10

At the request of the Council the insurer will indemnify any elected member or officer arising from their service on the board or participation in an outside body (e.g. in the capacity of a governor, officer, trustee, director, committee member or other official of any not-for profit entity) in the following situations;

a) where the service or participation by the officer or elected member is specifically requested by or under the specific direction of the Council

b) where the Council is legally entitled to approve the service or participation and to indemnify the officer or elected member in respect of it

c) any payment will only be made by the insurer for an amount in excess of any indemnification or insurance coverage provided by the not-for-profit entity or afforded from any other source and to which the employee or elected member is entitled.

The indemnity the Council can provide is subject to limitations. In general terms, if a elected member or officer is acting properly, within their powers and in good faith, the power to indemnify will usually apply. However, the Council cannot, for example, provide an indemnity in relation to any action or failure by any elected member or officer which constitutes a criminal offence, or for any action or failure by any elected member or officer which is the result of fraud, or other deliberate wrongdoing or recklessness on the part of the elected member or officer. You can seek further advice on indemnity from the monitoring officer.

~~The Borough Council indemnity insurance solely covers the following situations~~

- ~~a. — where the terms of reference are laid down in pursuance of the authority's statutory powers.~~
- ~~b. — where an individual acts in an advisory capacity only in connection with the Council's functions.~~
- ~~c. — where the Member occupies an observational role only on an outside body, representing the Council, and not in any decision making capacity.~~
- ~~d. — where a Member acts on behalf of a joint committee established by two or more local authorities.~~

2.11 In all cases which are outside the scope of the previous paragraph , indemnity cover should be obtained from the outside organisation concerned.

The principal forms of outside bodies are: