

Document 4.5

OUTSIDE APPOINTMENTS

(Guidance to Councillors)

Adopted 27 March 2017

Review by March 2019

1 Introduction

- 1.1 There are a number of outside bodies with which Councillors may become involved such as sports clubs, management committees and other community organisations, trusts, volunteer groups and companies.
- 1.2 In some cases, the Council may have appointed the Councillor to serve as its representative on the outside body. In other cases, the Councillor may have been appointed independently of the Council.
- 1.3 Where the Councillor is acting as representative of the Council on an outside body the Town Clerk should have made the appropriate notification and the Councillors should make this known to the body concerned. Notwithstanding this, there may be circumstances where the duty of the Councillor to the outside body overrides his or her duty to the Council.
- 1.4 The purpose of this guidance note is to give a brief summary of the different types of organisation to which a Councillor might be appointed and the duties and responsibilities which attach to the appointment. However, it is no more than a summary and is not a definitive statement of the legal position. In cases of uncertainty, further advice should be sought from the Town Clerk or from the Monitoring Officer at East Herts Council.

2. Types of Outside Body

- 2.1 This guidance note will give a brief overview of the duties and responsibilities attaching to appointments to the following types of outside bodies:-
 - ▶ Appointment as trustee
 - ▶ Appointment to an unincorporated association

If there is any conflict between the Council and your appointment as a director or trustee, your overriding duty is to the company or charity. In the case of an unincorporated association, the best advice is to err on the side of caution in the event of possible conflict and not to participate in decision-making at the Town Council level.

3. Relationship of Code of Conduct to Appointments to Outside Bodies

- 3.1 The Code requires Councillors acting as the authority's representative on another body to comply with the authority's Code of Conduct unless it conflicts with any legal requirements arising as a consequence of service on that body. This note explores some of the obligations arising as a result of the outside appointment.

4. Bias

- 4.1 The Code permits a Councillor to participate in decision-making at the Council even though it involves the outside body of which they are a Councillor, if they were appointed to that body by the Council. However, the Councillor should consider very carefully whether participation would be appropriate.
- 4.2 In addition to the provisions of the Code, Councillors also need to consider what is called "bias". There are a number of decided cases, which deal with the issue of bias. It is a common law rule of administrative law and in very simple terms it means that if a Councillor can be shown to have had a closed mind when they

made a decision either by already having made their mind up or being prejudiced towards a particular view, then the decision can be set aside.

- 4.3 It is easy to see how, if a Councillor sits on an outside body, then a member of the public might reasonably think that they had made their mind up in favour of the outside body when the Council makes any decisions affecting it. In such circumstances, the safest course would be to decide not to participate in the decision-making by the Council, particularly if the decision is a significant one (e.g. planning or licensing) or would affect the finances of the organisation.

5. Appointment as a Trustee to a Charity

If you are appointed by the Council as a Trustee, you must ensure you understand the requirements of the role and it is your responsibility to establish precisely what your responsibilities are.

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