

ANNEX

**(Report of Overview
& Scrutiny Committee –
6.10.05)**

**PROTOCOL ON PARTNERSHIPS
AND OTHER EXTERNAL ORGANISATIONS**

PROTOCOL - PARTNERSHIPS AND EXTERNAL ORGANISATIONS

1. Purpose of Protocol

- 1.1 To provide a framework of advice for the conduct of members and officers when representing the Council on external partnerships and other organisations.
- 1.2 To provide specific guidelines on questions relating to:
 - (a) member and officer liabilities;
 - (b) indemnities;
 - (c) reporting back to the Council;
 - (d) annual reports; and
 - (e) training.
- 1.3 This protocol is limited to appointments made in connection with the Council's powers, duties and general activities. It does not apply to membership of outside organisations held on a personal basis (i.e., independently of the Council). In such cases the member or officer concerned has a personal responsibility to consider issues such as indemnities, potential conflicts of interest and declarations of interest (see paragraphs 6.4 and 6.5 of this protocol).

2. Council involvement with External Partnerships and Organisations

- 2.1 The Council is routinely invited to appoint representatives to external bodies. Such invitations usually arise in one of the following ways:
 - (a) by virtue of a statutory duty or other legal requirement;
 - (b) by virtue of a specific decision or policy adopted by the Council;
 - (c) by virtue of invitations deriving from the Council's community leadership/consultative role; and
 - (d) by virtue of professional contacts among officers or through liaison arrangements delegated to them.
- 2.2 This protocol is intended to regularise the arrangements operating in any such case.

3. Appointments - Members of the Council

- 3.1 Member appointments are usually consolidated in May each year at the Annual Council meeting. Other Council meetings sometimes deal with appointments, usually in relation to casual vacancies or new bodies. All bodies will be reviewed annually.
- 3.2 Member appointments are subject to separate protocols in the Council's Constitution covering:
 - (a) allocation of places between the political groups; and
 - (b) allocation of places on outside organisations to Portfolio Holders where Cabinet functions are directly involved.
- 3.3 Reference to those separate rules is necessary on all questions of appointment procedure. No appointment of a member to an outside body or partnership can be

made without a Council decision. In deciding to make any appointments, the Council will satisfy itself that this involvement is relevant for the power and duties of the Council or is otherwise desirable.

4. Appointments - Officers of the Council

4.1 Officers serve on outside bodies in 3 main capacities:

- (a) when appointed by the Council, in lieu of a member representative or where both a member and an officer is desirable;

These appointments under 4.1 (a) above are subject to the same rules as applied to members.

- (b) by virtue of the post occupied or professional background/development requirements;

These are agreed by Heads of Service. For more junior positions, Heads of Service give approval, except where consultation with members or Management Board is desirable.

- (c) by virtue of a special invitation outside the normal terms of an officer's employment.

These appointments require approval by the Management Board and the Council in the case of Senior Officers. Junior staff are dealt with by Heads of Service. The Council's staffing policies stipulate the correct method of making these appointments.

5. Representatives on Outside Partnerships and Organisations - Policy Aspects

5.1 Where any external organisations are involved in any matter which directly or indirectly affects the policies, responsibilities and powers of the Council, representatives must be aware at all times that the Council's policy is paramount. No undertakings should be given which in any way compromise the legal requirements applying to Council operations or which compromise the policy of the Authority.

5.2 Representatives should report back to the Council on any matters affecting the Council and seek information with which to advise an external organisation or partnership. In reporting back, a representative may wish to request the relevant decision maker (e.g. the Cabinet or a Portfolio Holder) to consider any recommendations from the organisation concerned. No undertakings should be given on the outcome.

5.3 Some external partnerships have a basis in statutory powers whereby a number of partner bodies work together to achieve joint objectives. Although representatives are already able to participate in the proceedings of such partnerships, they should bear in mind at all times:

- (a) that the Council may have established policies and procedures which may be affected by those decisions; and
- (b) that implementation of partnership objectives may still require decisions by the Council in terms of staffing, finance and other resourcing matters.

6. Representatives on Outside Organisations and Partnerships - Insurance and Indemnities

6.1 Local Authorities are unable to provide all embracing indemnities or incur costs for all activities on all outside bodies. The Council's insurers can provide an indemnity to individual members and employees in limited circumstances only.

6.2 The circumstances in which the Council's insurers (currently Zurich) advise an indemnity can be provided are:

- (a) where an individual acts solely on behalf of his or her authority, within the terms of reference laid down by the authority, and solely in pursuance of the local authority's statutory powers;
- (b) where the individual acts solely in an advisory capacity in connection with the local authority's functions;
- (c) where the individual occupies an observer role on the board or committee of an outside organisation, representing the local authority's interests (rather than in a decision-making capacity);
- (d) where the individual acts on behalf of a joint committee established by two or more local authorities.

6.3 The authority is not able to provide an indemnity in respect of those activities where the individual acts:

- (a) solely on behalf of an outside body; or
- (b) outside his or her delegated powers; or
- (c) outside the authority's statutory powers.

6.4 Members and officers of the Council can therefore participate on outside organisations as observers or facilitators in the exchange of views or information as an extension of their position as local authority Councillors, but they may not make any decisions which are binding on the local authority.

6.5 Members are also not indemnified if they serve in an executive capacity on an outside body. A Member's status as a local authority councillor does not prevent the Member serving on an outside body in a personal capacity (i.e. not as a Council representative), provided that this does not create a conflict with his or her duties as a local authority member. Outside bodies must provide cover in either of these situations and local authority Members and employees should ensure that adequate cover for them is in place before agreeing to being appointed.

6.6 The same principles apply to officers as are set out in paragraph 6.4 above.

7. Written Agreements

7.1 The Local Government Association, in conjunction with the National Council for Voluntary Organisations, has produced a Code of Practice, a key recommendation of which is a formal written agreement between external organisations and the Council. This protocol therefore requires such an agreement to be compiled in each case covering the following:

- (a) the relationship between the local authority and the organisation e.g. funder, partner;
- (b) the formal role and responsibilities of the authority, employee or Member, e.g. director, trustee, adviser, observer;
- (c) a general statement regarding what is expected from the local authority Member or employee;
- (d) the responsibilities and liabilities of members where board membership of the outside organisation is involved in terms of legislation, regulation and accounting standards;
- (e) confirmation that, where the outside organisation is a charity, a Member or employee who is acting as a trustee must act in the interests of the charity rather than the authority when serving in that capacity;
- (f) the role of observers, including receipt or withholding of confidential papers, attendance or exclusion from meetings and any speaking or voting rights;
- (g) the arrangements made by the outside organisation to indemnify their members against the risk of personal liability where board or trustee membership is involved; and
- (h) the arrangements made by the authority to cover their Members and employees whilst serving on outside organisations.

7.2 The Council will maintain up-to-date records of the approved involvement of the authority and its members and employees who serve on outside organisations including:

- (a) regular reviews of all placements and categorisations;
- (b) the establishment of a register to be used as the basis for central record;
- (c) specific terms of reference being given to each individual involved with an outside body;
- (d) confirmation of the extent to which the authority's indemnity does apply, emphasising the consequences for the individual if his or her terms of reference are exceeded;
- (e) a clear statement that the authority's indemnity will not be available where the individual is:
 - a director on the board of a limited company; or
 - a trustee of a trust or charity; or
 - a voting member of the management committee of an unincorporated association;

and is not exercising a local authority function;

- (f) the position of an individual member on the Board or Committee of a grant-aided organisation to be amended to observer only; and
- (g) written confirmation to all Members and employees that personal or social memberships (i.e. those not connected with the Council) are not covered by the authority's indemnity.

7.3 A form of agreement document is attached as Appendix 2.

8. Representatives on External Organisations/Partnerships - Directorships

8.1 Memberships of some organisations confer executive responsibilities on Council representatives. Cases in point are trustees of charities, directorships and membership of other statutory authorities.

8.2 There is a general presumption against such positions being held by representatives of this Council. This reflects conflicts of interest which can arise between the aims and objectives of the Council and those of the organisation concerned.

8.3 In cases where representatives hold such positions they must ensure:

- (a) that they have been duly appointed by the Council (in the case of members) or the Management Board (in the case of officers);
- (b) that their duties on behalf of the organisation do not conflict with their role as Councillor or officer; and
- (c) that they maintain a clear distinction of responsibilities by declaring interests and not participating in Council meetings or discussions where there is a direct conflict of interest.

8.4 Representatives must seek timely advice on their position under the Code of Conduct for Members and Officers and any advice issued by the Standards Board for England and the Epping Forest District Standards Committee.

9. Reporting Arrangements - Members of the Council

9.1 A prime responsibility for members and officers who serve on outside organisations and partnerships is to keep the Authority informed of the work of those bodies. Such reports can also provide useful information by which the Council can judge whether continued involvement is of benefit to the Council. The Council will seek to receive copies of minutes of organisations but the reports by the representative may still be required.

9.2 Such reports should cover:

- (a) reports to the Cabinet on specific matters actually or potentially affecting the Council or on urgent matters; and
- (b) annual reports (even if these are produced separately by the organisation concerned).

9.3 Reports under 9.2(b) should be made in cases where an organisation does not produce its own annual report. A prescribed format (attached Appendix 3) will be

used. A relevant timescale will be prescribed for this leading to the Annual Council meeting each year.

10. Reporting Arrangements - Officers of the Council

- 10.1 Officers serving on outside organisations or partnerships as representatives of the Council shall keep their line manager(s) or Head of Service informed about the work of the body concerned. Heads of Service shall determine whether any information should be referred to the Management Board/Portfolio Holder.

11. Review of Protocol

- 11.1 The protocol shall be subject to review on a regular basis or according to specific circumstances.