



Penrith Town Council

JULY 2022

Guidance for Town Councillors appointed as representatives to external community and local organisations (Outside Bodies)

Penrith Town Council believes that appointing representatives to community and local organisations is of considerable value to both the organisation and the Council. Representation for Outside Bodies are confirmed annually by Full Council or when required and it is recommended that the Member who is appointed as the representative should have a particular interest in, or possess knowledge of the responsibilities of the outside body. Engagement with Outside Bodies is key to helping the Councils deliver their priorities for the people and in supporting the Bodies themselves to deliver their objectives. Councillors participate in a variety of external organisations and support the development of important community services. Members appointed to outside bodies are able to work with and alongside local community groups, helping to empower them in terms of addressing local issues. Benefits of membership include but are not limited to:

- Provide knowledge, skills and expertise, which may not otherwise be available.
- Ensure that good relationships and effective communication can be maintained with the body.
- Protect the Council's investments or assets i.e. if the Council has provided grant funding or provides funding for service delivery.

In the context of this guidance 'outside bodies' include trusts, companies, charities, school governing bodies, industrial and provident societies and community associations. Councillors may be involved as a director, trustee, governor or member (with or without voting powers).

With the increasing emphasis on partnership working, councillors, as community leaders, have an important role to fulfil in supporting and advising outside bodies. However, this can give rise to conflicts of interest, particularly where the organisation is seeking or receiving funding from the Council. Councillors always need to be clear about their roles and alert to potential conflicts of interest in order to ensure transparency and public confidence in local democracy.

The purpose of this guidance is to assist councillors in the discharge of their responsibilities on outside bodies clearly and effectively. It covers, primarily, the position of councillors appointed by the Council to serve on outside bodies, though much of the advice applies equally to councillors who are involved with outside bodies in a private capacity. In those situations, however, the Council's insurances will not apply.

Application of the Code of Conduct for Members

Whilst representing the Town Council, Councillors are reminded that they are subject to abide by the Penrith Town Council Standing Orders and Code of Conduct. Members found to have breached the Council's Code of Conduct will be removed from representing the Council on Outside Bodies for the term of the Council.

Councillors who serve on more than one body, in particular, need to be mindful of potential conflicts of interest and always act in an open and transparent manner in carrying out their respective roles. For example, where a councillor is at a council meeting considering an application for a grant or a community asset transfer request from a parish council or other public body of which they are a member, they should declare the existence and nature of their interest. Having done so, they may take part in the discussion of that item and vote, unless there are particular reasons why this would not be appropriate. It is also advisable as a matter of transparency, to include details of the interest in their register of interests.

Predetermination and Bias

Predetermination occurs where someone has a closed mind so that they are unable to apply their judgement fully and properly to the issue requiring a decision. This can lead to legal challenges and decisions being set aside.

The Localism Act 2011 has clarified the rules on predetermination. It makes it clear that a councillor is not deemed to have had a closed mind on an issue just because they have indicated what view they have taken or may take before the issue is decided. A councillor is not, for example, prevented from participating in discussion of an issue, or voting on it, if they have campaigned on the issue or made public statements about their approach to it. The general position remains however, that, whatever their views, councillors must approach their decision-making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.

Councillors need to be aware that decisions may be challenged and set aside on the grounds of bias. Under common law, bias involves some element of partiality or personal interest in the outcome of a case, because of a close connection with the parties, or the subject matter of the dispute, or because of a tendency towards a particular shared point of view. The relevant test for bias is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the decision-maker was biased. The risk of a successful challenge on these grounds may be overcome by proper observance of the requirements of the Code of Conduct and particularly the provisions set out above.

Liability, Insurance and Indemnity

Councillors can incur personal civil and criminal liability from formal participation in outside bodies. However, under section 265 of the Public Health Act 1875 (as applied by Section 39, Local Government (Miscellaneous Provisions) Act 1976), councillors enjoy statutory immunity from civil liability where they act within the powers of the authority, in good faith and without negligence. This immunity does not apply however, where they act beyond the powers of the Council or act in bad faith (i.e. with dishonest or malicious intent) or negligently, and it does not protect them from criminal liability, for example for fraud where they exercise managerial responsibilities.

Penrith Town Council has a wide insurance provision to protect its assets and liabilities. Within these provisions, the Council has extended its cover to protect Councillors when carrying out duties in connection with the business of the Council.

Confidential Matters

Councillors appointed to serve on outside bodies should be mindful of their legal obligations regarding disclosure of confidential information and in case of doubt should seek advice from the Town Clerk or solicitor. Councillors are not at liberty to divulge any Penrith Town Council matters of a confidential nature to any individuals or organisations irrespective of their representative role.

General

As part of the new councillor induction process, Members will be supported to develop an understanding of their role and responsibilities regarding participation on Outside Bodies, and provided with appropriate guidance. Members will receive a briefing from officers about the role of the body, the Council's policy position in relation to this area of work, and any key information and facts that Members need to be aware of prior to attending their first meeting. A Senior Officer is designated as a link for each outside body, and their contact name and details are made available to Members and as part of the general list and information relating to Outside Bodies.

Councillors acting as representatives do not have authority to commit Council to any course of action or any financial obligation without the matter being referred to Council for consideration.

Members are welcome to attend any Outside Bodies as part of their own ward case work or personal interest in a private capacity rather than as a representative of the Council. Members will need to ensure that they are clear in advising these Bodies when they are not serving on them as a representative of the County Council and its views.

Procedures

There are two categories of representation:

1. Representatives to organisations that are legally or constitutionally required to have a Town Council representative: for example Eden Association of Local Councils.
2. Representatives who are requested by organisations but where there is no legal, constitutional or funding obligation.

Representatives appointed under the first category will be expected to attend meetings of that organisation on a regular basis and make oral reports to Council after each meeting.

Representatives appointed under the second category should attend meetings where possible and report to Council after each meeting attended.

Representatives are expected to report in writing if they are unable to attend the next Full Council meeting.

It is imperative that the Town Council's representative report to the Town Council includes any matters which could have a major impact on the town or its residents or which are contrary to Council policy. If necessary, such matters should be reported to Council in a confidential session of the meeting and at the earliest opportunity.

In addition, they may give prior notice to the Town Clerk / Chair of the Council that they wish to raise a matter for consideration by Council and that matter will be itemised on the next appropriate Council agenda.

Councillors attending organisations' AGMs are expected to submit to Council copies of the organisation's Annual Report and Accounts.

All Members who are appointed to Outside Bodies will provide an annual report to feedback any key matters from their attendance on the Outside Body. This would form part of the Annual Town Meeting Agenda and Annual Report.

Review

This guidance, the appointments and the register of Outside Bodies is reviewed as and when new appointments are agreed throughout the municipal year and at least once a year at the Annual Town Council Meeting.

Representatives to external bodies and community organisations and informal groups in 22-23	
Organisation	Representatives
A66 Community Liaison Group	Cllr. C. Shepherd with Cllr. Snell as SD & Deputy Town Clerk, Economic Development Officer
Community Transport	Cllrs. Davies & Jackson
Eden Assoc. of Local Councils	Cllr. Snell
Eden Health and Wellbeing Forum	Cllr. Snell
Eden Resilience Group	Town Clerk, Services & Contracts Manager
Friends of Coronation Gardens	Cllr. C. Shepherd
Local Cycling and Walking Infrastructure Plan	Cllr. Kenyon & Deputy Town Clerk, Economic Development Officer
Parking and Movement Study	Cllrs. Kenyon, Knaggs & C. Shepherd & Deputy Town Clerk, Economic Development Officer
Penrith Action for Community Transition	Town Clerk
Penrith and Eden Refugee Network	Cllr. Snell
Penrith Business Improvement District	Economic Development Officer
Penrith Climate Change Action Network – informal group	Town Clerk, Services & Contracts Manager, open to all Cllrs.
Penrith in Bloom – informal group	Community Services Officer
Rural Market Town Group - Officers	Town Clerk, Economic Development Officer
Rural Market Town Group - Members	Cllr. Burgin
Town Working Group	Deputy Town Clerk, Economic Development Officer
Town Working Group- Sub-groups	Officers and Members depending on the purpose of the group
Zero Carbon Cumbria Partnership	Town Clerk
Devolution	Cllr Jackson - Lead Member

Amended December 2022