

Use of the Well-being powers under Section 2 of the Local Government Act 2000.

The following brief account of the Section 2 well-being power is tailored to its application to the sending of Council representatives to sit on outside bodies. This may involve expenditure by the Council, committing the Council to a course of action or involve Council representatives in duties and responsibilities that can expose the Council or the representatives themselves to risk.

Section 2 (1) of the Local Government Act 2000 states:

Every local authority are to have power to do anything which they consider is likely to achieve any one or more of the following objects-

- (a) the promotion or improvement of the economic well-being of their area,
- (b) the promotion or improvement of the social well-being of their area, and,
- (c) the promotion or improvement of the environmental well-being of their area.

The power can be exercised for the benefit of the whole or part of the local authority's area or for the benefit of all or any persons resident or present in a local authority's area.

It allows a local authority to incur expenditure for these purposes, to give financial assistance to any person, enter into arrangements or agreements with any person, to co-operate with any person, co-ordinate the activities of any person, and provide staff, goods, services or accommodation to any person in pursuance of the section 2 (1) purposes.

Limitations on the use of the power

While it is therefore a wide power without significant limitation, two restrictions on its use must be always born in mind:

1. The power may not be used where an express legislative provision prohibits or limits the authority's power to act in that area.
2. The power does not enable an authority to raise money.

“Having regard to the community strategy”

In deciding how or whether to use the power, an authority must have regard to their community strategy. This does not mean that if there is no reference in the community strategy to the specific purpose for which the powers are to be used – in this case the involvement of the Council in supporting a particular outside body - the power cannot be used. Providing it can be shown that in exercising the power to appoint representatives to the body concerned, the community strategy was considered then the legislation will have been complied with. In most cases the appointment will be consistent with the aims of the strategy but even where this is not the case, the power may still be used, providing the strategy has been considered and there are sound reasons for the proposal independent of the community strategy.