

Body: Cabinet

Date: 18 October 2017

Subject: Appointment of Members and Officers to Outside Bodies - Insurances and Indemnities

Report of: Assistant Director of Legal & Democratic Services

Ward(s) All

Purpose To ensure that members and officers are fully protected against personal liabilities when properly carrying out roles to which they have been appointed for the Council's benefit.

Decision type: Non-key decision

Recommendation:

1. That the Council reviews the scope of its insurance provision and, if necessary, extends it to provide cover for those members and officers who are nominated or appointed by the Council to outside bodies, both currently and in the future, and;
2. That the Council should provide a comprehensive indemnity in the terms permitted by the Local Authorities (Indemnities for Members and Officers) Order 2004 for members and officers who are nominated or appointed by the Council to outside bodies, both currently and in the future.

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1.0 Introduction

- 1.1 There is statutory protection against personal liability for members and officers whilst they are performing their council roles, providing they act within their powers and in good faith.
- 1.2 This statutory protection does not exist when members and officers act on outside bodies, so the issue of personal liability on outside bodies is one which needs to be considered.
- 1.3 Where the Council has been invited to nominate a member or officer for appointment, the formality of the appointment itself remains with the outside body and so in these circumstances a first step should be to find out what provision by way of insurances and protection the outside body is providing for those persons nominated to it.
- 1.4 Where the Council itself is making the appointment to the outside body then it

has the power itself to provide the relevant members and officers with insurance and/or an indemnity to cover any personal liabilities. This is helpful because, for example, although the circumstances in which it might happen are rare, it is at least possible for members or officers who are appointed as directors of companies to be held responsible for a company's liabilities. Appointments of members and officers to non-corporate organisations (unincorporated associations), which have unlimited liability, carry greater risk of personal costs/liability.

- 1.5 The Council's insurances have in the past been sufficient to provide cover for both officers and members when they have been acting on outside bodies by way of appointment by the Council.
- 1.6 With the advent of more innovative ways of working the Council is setting up and appointing members and officers to a range of new external bodies, in particular local authority companies. In order to make certain that members and officers who are appointed to these roles are fully covered it is suggested that two things should happen:
 - i) The Council reviews the scope of its insurance provision and, if necessary, extends it to provide cover for those members and officers who are nominated or appointed by the Council to outside bodies, both currently and in the future.
- 1.7 There may be occasions where insurance cover does not provide adequate protection. For this reason government has seen fit to pass legislation which explicitly enables a local authority to provide an indemnity to any of their members or officers for any action of, or failure to act by, that member/officer whilst acting in the outside role to which they have either been nominated or appointed by, at the request of, with the approval of or for the purposes of the Council:
 - ii) The Council should therefore provide a comprehensive indemnity in the terms permitted by the Local Authorities (Indemnities for Members and Officers) Order 2004 for members and officers who are nominated or appointed by the Council to outside bodies, both currently and in the future.

It is emphasised that such protection, whether by way of insurance or other indemnity, will only protect members and officers whilst they are acting in good faith.

No indemnity may be provided in relation to any act or failure to act which:

- Constitutes a criminal offence. (Also in the event of a finding of guilt of part or all the charges the indemnity shall provide for a claw-back of sums paid out by the authority or insurer).
- Is the result of fraud or other deliberate wrongdoing or recklessness of the part of that member or officer.

Legal Implications: These are set out in the body of the report.

Background papers - None.