

REPORT OF MONITORING OFFICER

SUBJECT: VOLUNTARY CAP BY THE AUTHORITY ON INDEMNITIES

Proposal

This report proposes implementing a voluntary cap on indemnities to Members of the Authority in relation to their defence of an alleged breach against the Members' Code of Conduct.

Background

The Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006 provides the statutory basis for local authorities to provide indemnities to Members who are facing allegations of breaches of the Members' Code of Conduct and who are, as a result, facing investigation by the Public Services Ombudsman for Wales leading to possible appearances before the Adjudication Panel for Wales or the Authority's Standards Committee. In short, Members are entitled to ask the Authority to consider granting indemnity to them if they face such proceedings. Such indemnity may be provided as the Authority feels appropriate, but it is subject to the terms and conditions contained in the 2006 Order. It is discretionary and in the event of an adverse finding being made the Member can be required to repay any sums advanced under the indemnity. The 2006 Order did not provide for any ceiling to the amount that may be advanced.

Current practice

This Authority has in place an insurance policy with DAS for the protection of any Member facing such allegations. This policy has similar terms and conditions to that of the 2006 Order but it has a contractual limit of £50,000. This is separate and should not be confused with the Order; this is a contractual agreement between the Authority and the relevant insurance company. That is the crucial difference between it and the indemnity under the 2006 Order. The insurance company does reserve the right to recover from the individual Member making a claim on the policy any expenditure it has provided in the event that a period of disqualification is imposed by either the Standards Committee or the Adjudication Panel for Wales. However, there are concerns that this policy may not be offered in the future by the insurance company or, if it is, that it will only be available through significantly higher premiums. The current annual premium for the Authority is £795.

Future Level of Indemnity

On 21st August 2013 the Standards Committee of the Authority considered a report from the Monitoring Officer on the suggestion by the Public Services Ombudsman for Wales, supported by the Welsh Government, that all local authorities introduce a voluntary cap on the level of indemnity granted to Members. The subject has been a matter of considerable concern to both bodies in the past and was referred to in the proposal circulated for the Local Democracy Bill that has recently been enacted by the Welsh Government. A £20,000 voluntary cap has been suggested as some local authorities have faced significantly higher costs in defending Members in recent years.

The Standards Committee unanimously adopted the recommendation in the report that the Authority be recommended to adopt a voluntary cap of £20,000 in the event that the current policy, provided by DAS, is discontinued at any time.

RECOMMENDATION:

That Members adopt the recommendation of the Standards Committee and approve (in the event of the present indemnity insurance provided by DAS being discontinued) the voluntary cap of £20,000 in the level of indemnity to Members defending allegations of a breach of the Members' Code of Conduct.

Background information

Standards Committee – 21st August – Voluntary Cap on Indemnities

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Consultees: Tegryn Jones, Chief Executive, Richard Griffiths, Finance Manager