

Agenda Item

Committee: **Standards**

Date: **24 September 2003**

Title: **Indemnities for Members**

By: **Director of Law and Performance Management**

Purpose of report: **To seek the Committee's views on a new proposal to allow authorities to indemnify members against costs incurred in defending an allegation of a breach of the Code of Conduct.**

RECOMMENDATION -

To consider the views that should be expressed by the Council on the consultation paper on indemnities for members and officers, insofar as it relates to investigations of breaches by members of the Council's Code of Conduct.

1. Financial Appraisal

1.1 There could be an additional cost in terms of an increased insurance premium if the County Council decides to indemnify members against costs incurred in defending an allegation of a breach of the Code of Conduct in the circumstances described in section 2 below. It is not possible to quantify the additional cost at the present time but every effort would be made to meet the costs from within existing budgets.

2. Supporting Information

2.1 There has been uncertainty about the extent of the powers of local authorities to indemnify their members and officers out of public funds for any personal liability arising from actions or decisions taken by them in the course of certain of their official duties. This is particularly where a member or officer becomes liable for debts or other liabilities or is required to defend himself/herself as a result of serving on a body to which they have been appointed by the Council.

2.2 Members are included in the Council's personal accident insurance policy which covers them against injuries sustained while undertaking their Council duties. It also provides liability cover. This extends to legal liabilities to third parties, including public liability arising from an action while undertaking their duties as a County Councillor. It also covers them against the costs of defending themselves against legal proceedings brought by a third party, say for libel or slander, when performing their duties as a member, provided the Councillor was not acting recklessly but was acting honestly and in good faith.

2.3 The Office of the Deputy Prime Minister has issued a consultation paper with a view to the Secretary of State making regulations clarifying the powers of local authorities to provide indemnities for members and officers. One of the issues raised is whether authorities should have the ability to indemnify members against the costs incurred in defending themselves where they are the subject of an allegation of a breach of the Council's Code of Conduct. The consultation paper asks for views on whether it is appropriate for an authority to have the ability to provide such an indemnity only where it is found that there has been **no** breach of the Code or whether it should also be able to do so where the Code has been breached, but no action need be taken. The Government is of the firm view that indemnities should not be available

where there is a finding of misconduct and action is to be taken. The consultation paper also asks for views on what safeguards may be appropriate to prevent over-reliance on legal representation. It suggests that costs incurred by members subject to investigations can, and should, be kept low and that it should not be necessary, in the majority of cases, for members to seek legal representation. It recognises, however, that there could be cases where legal representation might be justified. Views are sought on safeguards that may be needed to prevent over-reliance on legal representation.

2.4 The Committee's views are sought on the issues raised in the consultation paper insofar as they relate to Code of Conduct investigations.

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