

## 10. **INDEMNITIES FOR MEMBERS AND OFFICERS (A.111/EWJ)**

### **Proposal**

1 To provide indemnities for Members and officers in accordance with the Local Authorities (Indemnities for Members and Officers) Order 2004 and to take insurance cover through a Group Legal Protection Insurance Policy.

### 2 **RECOMMENDATION:**

1. **That the Authority grants indemnities to Members and Officers in the terms set out in Annex 2 of the report**
2. **That the Authority takes insurance cover through a Group Legal Protection Insurance Policy with DAS Legal Expenses Insurance Company Limited.**

### **Policy/Legal Background**

3 The Local Authorities (Indemnities for Members and Officers) Order 2004, gives a specific power for authorities to grant indemnities, and to take out insurance, to cover the potential liability of members and officers in a wide range of circumstances.

### **Key Issues**

#### General

4 Members and officers of local authorities can incur personal civil and criminal liability as a result of their actions. Members and officers have statutory immunity from civil liability where they act within the powers of the Authority, in good faith and without negligence.

5 This immunity does not apply where they go beyond the powers of the Authority or act in bad faith or negligently. Also it does not protect members and officers from criminal liability.

6 Local authorities have differing powers to provide Members and officers with indemnities. Certain insurance arrangements have been entered into which also provide limited indemnity to members and employees in relation to specific liabilities and costs. The Indemnities Regulations of 2004 clarified the existing situation and extended the power to grant such indemnities. These are explained in more detail in Annex 1 of the report.

#### Indemnity Terms

7 The full terms of the proposed Indemnity to be provided for Members and officers, including casual and temporary staff, is set out in Annex 2 of the report. This follows the requirements of the regulations and is entirely consistent with the indemnities that have been provided by other local authorities.

#### Member Code of Conduct investigations

8 The Indemnities Regulations also enables a local authority to grant an indemnity to its Members for the cost of legal representation in respect of any investigation, hearing or proceedings for an alleged failure to comply with the Code of Conduct for Members.

The regulations provide that any such indemnity must be subject to a requirement for the Member to reimburse the Authority in the event that:-

- There is a finding that the Member has failed to comply with the Code of Conduct and that finding is not overturned on appeal, or
- The Member admits failure to comply with the Code of Conduct.

9 The Authority's insurance advisor at Derbyshire County Council has advised that such an indemnity for Members should be backed by a Group Legal Protection Insurance Policy that will cover the 30 Members of the Authority and the 3 co-opted Independent Members of the Standards Committee.

10 A quotation has been obtained from DAS Legal Expenses Insurance Company Limited for an annual premium of £1050. The limit of any one claim is £50,000.

## **APPENDIX**

### **Background**

- 1 See main report and Annex 1

### **Resources**

- 2 The annual cost of the additional insurance will be funded out of the corporate insurance budget.

### **Risk Management**

- 3 The risks are managed by the Authority having a strong corporate governance framework and systems of internal controls in place, including Codes of Conduct and Protocols, which are subject to both external and internal annual audits. Members and officers act within this framework with the support guidance and advice of professionally trained and qualified staff.

### **Human Rights, Equalities, Health & Safety**

- 4 The proposal has no implications.

### **Consultees**

- 5 The report has been consulted with the Chief Executive; Management Team, Head of Finance and Head of Law, the Authority's Insurance Advisor, Unison and Staff Committee.

### **Enclosures**

- 6 Annex 1 – Indemnities for Members and Officers Summary  
Annex 2 – Indemnities for Members and Officers

### **List of Background Papers** (not previously published)

- 7 None

### **Report Author**

- 8 Eugene Judge Democratic Services Manager

### **Publication date**

- 9 19 June 2008