

ANNEX 2

Indemnity for Members and Officers

Local Authorities (Indemnities for Members and Officers) Order 2004.

1. The Authority will provide an indemnity, which may or may not be supported by insurance, to Members and officers in the following circumstances:-

In relation to any action, or failure to act which –

(i) is authorised by the Authority; or

(ii) forms part of, or arises from, any powers conferred, or duties placed, upon that Member or officer, as a consequence of any function being exercised by that Member or officer (whether or not when exercising that function he/she does so in his/her capacity as a Member or officer of the Authority)

- at the request of, or with the approval of the Authority, or
- for the purposes of the Authority.

2. No indemnity will be provided in relation to any action, or failure to act, by a Member or officer which –

(a) (i) constitutes a criminal offence; or

(ii) is the result of fraud, or other deliberate wrongdoing or recklessness on the part of that Member or officer?

(b) Notwithstanding paragraph (a)(i), an indemnity will be provided in relation to –

(i) subject to paragraph 5 below, the defence of any criminal proceedings brought against the officer or Member; and

(ii) any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.

(c) No indemnity is provided in relation to the making by the Member or officer indemnified of any claim in relation to an alleged defamation of that Member or officer but may be provided in relation to the defence by that Member or officer of any allegation of defamation made against the Member or officer.

3. Actions exceeding the powers of the Authority or Member or officer.

(1) An indemnity is provided to the extent that the Member or officer in question:

(i) believed that the action, or failure to act, in question was within the powers of the Authority; or

(ii) where that action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the

Authority, or any statement that certain steps have been taken or requirements fulfilled, believed that the contents of that statement were true, and it was reasonable for that Member or officer to hold that belief at the time of action or failure.

(2) An indemnity is provided in relation to an act or omission which is subsequently found to be beyond the powers of the Member or officer in question but only to the extent that the Member or officer reasonably believed that the act or omission in question was within the powers available at the time of action.

4. Where the Member or officer is acting on behalf of another organisation then the activities covered will be deemed to have arisen in the capacity as a "Member or officer of the Authority" where:

(a) the appointment to that outside body was made by the Authority; or

(b) the nomination to that outside body was made by the Authority; or

(c) such appointment to that outside body was specifically approved for the purpose of these indemnities.

5. Terms of Indemnity

1. The level of fees which will be reimbursed will be those which are deemed reasonable. The Monitoring Officer should be consulted prior to advice being sought under the terms of this indemnity, with regard to the prevailing level of fees that are deemed acceptable

2. Where the indemnity has effect in relation to the defence of any criminal proceedings, any "Part 3 proceedings" (investigation, report, reference, adjudication or any other proceeding pursuant to Part 3 of the Local Government Act 2000); or any other civil proceedings then it is provided on the terms that:-

(a) in the case of criminal proceedings, if the Member or officer in question is convicted of a criminal offence and that conviction is not overturned following any appeal, and

(b) in the case of Part 3 proceedings –

(i) if a finding is made in those proceedings that the Member in question has failed to comply with the Code of Conduct and that finding is not overturned following any appeal, or

(ii) if the Member admits failure to comply with the Code of Conduct,

(c) in the case of civil proceedings should a court find against the indemnified or should any admission of liability be made,

that the Member or officer shall reimburse the Authority or the insurer (as the case may be) for any sums expended by the Authority or insurer in relation to those proceedings pursuant to the indemnity or insurance. Any such sum is recoverable as a civil debt.

3. In the case of Part 3 proceedings which are being considered by the Standards Committee of the Authority then the question of whether representation in connection with such proceedings shall be indemnified will be at the discretion of the Standards Committee.

4. At any point in the defence of any proceedings, be they criminal or civil, once it becomes known to the Member or officer, that their case has little reasonable prospect of success, then the Member or officer shall inform the Monitoring Officer forthwith. The Member or officer shall incur no further expenses from that date. The indemnity will not cover any expenses incurred after that date.