

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

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REVIEW OF THE CAP IN RELATION TO MEMBERS' INDEMNITIES

1. PURPOSE OF REPORT

To inform Members of the current position regarding Members' indemnities and seek a recommendation to Council that the current approved cap for this Authority be reduced.

2. RECOMMENDATIONS

- 2.1 That Cabinet recommend to Council the Authority reduce its cap in relation to Members' indemnities from £50,000 to £20,000 with the Standards Committee determining on a case by case basis, each application for a costs indemnity in order to decide whether an indemnity should be given at all.

3. BACKGROUND

- 3.1 Under the Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006 ('2006 regulations') local authorities may, but do not have to, provide an indemnity for Members in respect of legal costs incurred in relation to misconduct proceedings brought against them under the Local Government Act 2000.
- 3.2 As the Council's insurance scheme did not provide cover for Members in respect of an alleged breach of the Members Code of Conduct in 2007 Council resolved that cover be provided with an indemnity limit of £50,000 per incident. This indemnity is currently paid by way of an annual premium.
- 3.3 The Standards Committee has a 'gatekeeper role' in determining on a case by case basis each application for a costs indemnity in order to decide whether an indemnity should be given at all. The 2006 regulations also set out limitations on giving indemnities, and these are reflected in the form of indemnity which has been adopted by this Council.
- 3.4 To date the Standards Committee has received no applications or requests from Members for assistance under the indemnity.

Current Situation

- 3.5 A number of high profile cases involving Councils who gave uncapped indemnities to its members have given rise to much debate across Wales about the scale of indemnities provided by local authorities to Members when defending themselves in hearings against alleged breaches of the Code of Conduct.
- 3.6 Concerns have been expressed about the scale of indemnities provided by local authorities to Members in such circumstances by, amongst others, the WLGA, the Public Services Ombudsman for Wales (the Ombudsman) and the Chair of the Adjudication Panel for Wales.
- 3.7 In 2013 a letter from the then Minister for Local Government and Communities regarding the ethical framework which contained reference to a voluntary cap on indemnities being imposed by local authorities was considered by the Standards Committee. The Standards Committee indicated their support for such a measure.
- 3.8 The Ombudsman had originally proposed a cap of £10,000 but the WLGA approved a cap of £20,000 on the basis that the level proposed by the Ombudsman was insufficient cover given the complexities of some cases.
- 3.9 The WLGA further agreed that local authorities should consider on a case by case basis whether and to what level to grant an indemnity but that no indemnity should exceed £20,000.
- 3.10 Having considered the matter the Standards Committee has agreed that in any individual case an indemnity is to be given in respect of matters relating to a breach of the Members' Code of Conduct it should decide on the amount of that indemnity up to a maximum of £20,000. The Standards Committee could, of course, having reviewed the facts of the matter conclude that no indemnity should be given and it has the final say in this regard.
- 3.11 If the Council subsequently agrees the reduction in the cap the terms of the form of indemnity would be amended accordingly.
- 3.12 In light of the above, Cabinet is therefore asked to consider whether it should recommend to Council the Authority reduce its cap in relation to Members' indemnities from £50,000 to £20,000 per incident with the Standards Committee determining on a case by case basis, each application for a costs indemnity in order to decide whether an indemnity should be given at all.