

MEETING:	Standards Committee
DATE:	16 June 2011
TITLE:	Indemnity in respect of legal representation the Standards Committee Hearing
AUTHOR:	Propriety Officer
ACTION:	To decide on the nature and extent of the legal representation that would be appropriate to repay under the terms of the Council's Form of Indemnity to Members and Officers

Background

1. The Ombudsman's report on the complaint against Councillor A was referred to the Standards Committee. The Committee decided, at its previous meeting, that the councillor should be given the opportunity to make representations, either orally or in writing. The member has confirmed that he will be attending the hearing and will be represented by a lawyer.

2. The Council provides an indemnity to elected members in respect of (amongst other matters) allegations of a breach of the code of conduct. The indemnity included re-payment of costs but is conditional on the outcome. The terms of the indemnity provides as follows:

"B. Repayment of cost

Where any indemnity is given to a member or officer in relation to the defence of criminal proceedings or proceedings alleging a breach of the code of conduct, then:-

...(ii) where the proceedings relate to an allegation against a member of a breach of the code of conduct:-

(a) if a finding is made that finds that the member has failed to comply with the code of conduct (or the member has admitted that failure) and as a consequence the member is suspended, partially suspended or disqualified, then the sums expended by the authority or its insurer must be reimbursed to the authority or its insurers

(b) in the case of an allegation of a breach of the code of conduct and there is a finding that the member has failed to comply with the code of conduct (or the member has admitted that failure) and as a result the member is censured or has some penalty imposed other than suspension, partial suspension or disqualification then if the Council's Standards Committee deems it appropriate the sums expended by the authority or its insurers must be reimbursed to the authority or its insurers."

3. Additionally, the member must obtain the prior approval of the Authority, through its Standards Committee, of the nature and extent of professional representation. The terms of the indemnity provides as follows:

“C. Level of representation

In the case of professional representation of a member or officer under the terms of this indemnity the member or officer must obtain the prior approval of the authority through its Standards Committee of the nature and extent of that representation, provided always that the decision on the level or extent of representation will not unreasonably restrict the right of the individual member or officer to properly defend those proceedings.”

Recommendation

4. The Committee is therefore requested to decide on the nature and extent of the legal representation that would be appropriate for the Council to provide for under its Form of Indemnity to Members and Officers