

<p><u>MEETING</u></p> <p>CABINET RESOURCES COMMITTEE</p>
<p><u>DATE AND TIME</u></p> <p>THURSDAY 18TH OCTOBER, 2012</p> <p>AT 6.00 PM</p>
<p><u>VENUE</u></p> <p>HENDON TOWN HALL, THE BURROUGHS, NW4 4BG</p>

Dear Councillors,

Please find enclosed a late item of business which the Chairman has agreed should be considered at the above meeting.

Item No	Title of Report	Pages
18a	Provision of Indemnity for Legal Costs	1 - 4

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Meeting	Cabinet Resources Committee
Date	18 October 2012
Subject	Provision of Indemnity for Legal Costs
Report of	Leader of the Council
Summary	This report asks the Committee whether it wishes to increase the level of an agreed indemnity to cover the cost of a Member's own choice of legal representation in respect of defending a complaint concerning an alleged breach of the Members' Code of Conduct.

Officer Contributors	Jeff Lustig – Director of Corporate Governance
Status (public or exempt)	Public
Wards Affected	N/A
Key Decision	No
Reason for urgency / exemption from call-in	N/A
Function of	Executive
Enclosures	None
Contact for Further Information:	Aysen Giritli, Head of Governance, aysen.giritli@barnet.gov.uk , 020 8359 2177

1. RECOMMENDATIONS

- 1.1 The Committee is asked to consider whether it wishes to increase the level of a previously agreed indemnity for a Member's legal costs incurred in defending a complaint of an alleged breach of the Members' Code of Conduct including an appeal against the decision of the Standards Sub-Committee and, if so, to confirm the amount of the revised level of indemnity**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet, 17 January 2007(Decision item 4) – approved the grant of indemnities to Members and Officers within the terms set out in that report.
- 2.2 Cabinet, 18 June 2007(Decision item 4) – approved an amendment to the previously approved arrangements and noted external insurance cover was arranged in relation to certain types of investigation.
- 2.3 Cabinet, 22 February 2010 (Decision item 8.3) – approved that it was appropriate to continue with the principle of external insurance cover being called upon in all cases where a Member indicates a wish to have legal advice and representation funded by the Council.
- 2.4 Cabinet Resources Committee, 30 November 2010 (Decision item 11) – agreed that a Member be provided with an indemnity for costs of up to £3,000 for their own choice of legal representation to deal with a complaint concerning an alleged breach of the Members' Code of Conduct.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 Members of the Council when undertaking their engagement duties require suitable indemnity in respect of any complaints against them.

4. RISK MANAGEMENT ISSUES

- 4.1 If the indemnity cap is lifted and an enhanced payment is made to the Member, this may be considered to be disproportionate and/or inconsistent with the Council's approach to budgetary control and discipline.
- 4.2 Individuals might be discouraged from seeking election as councillors if they believe that they will personally have to meet the cost of defending claims made against them as Members, even when the defence is successful.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Members are asked to give due consideration to the Public Sector Equality Duty when considering the recommendations of this report.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

6.1 Any indemnity payment will be drawn funded from the Risk Reserve.

7. LEGAL ISSUES

7.1 The legal issues in relation to grant of indemnities to Members and officers are set out in the reports listed at paragraphs 3.1 to 3.3, above.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

8.1 The Council's constitution in Part 3, Responsibility for Functions, paragraph 3.6 states the functions delegated to the Cabinet Resources Committee including approval of schemes not in performance management plans but not outside the Council's budget or policy framework.

8.2 This does not constitute a key decision as it does not involve expenditure of in excess of £500,000, nor does it affect two or more wards of the borough.

9. BACKGROUND INFORMATION

9.1 The Member referred to in this report is Councillor Andreas Tambourides.

9.2 At its meeting of 30 November 2010, the Cabinet Resources Committee agreed to provide an indemnity of up to £3,000 in respect of legal costs incurred by the Member on external legal advice in dealing with a complaint concerning an alleged breach of the Members' Code of Conduct.

9.3 The Standards Sub-Committee found that the Member had breached the Code of Conduct. However, the Member appealed to the First Tier Tribunal who upheld his appeal. The Member was legally represented at both hearings.

9.4 With the case now concluded and there being no finding of wrongdoing on the part of the Member and no sanction imposed against him, the Council has received an application from the Member for the payment of his legal costs in the case. The costs sought exceed the previously approved level of indemnity. The Tribunal has the power to award costs, but it did not receive a costs application from the Member.

9.5 The Member's application for costs in this case total £16,000 (exclusive of VAT). The Council's legal team sought guidance from the Council's cost draftsman and, having considered this claim figure their calculation is that £12,953.50 (exclusive of VAT) might be an appropriate level if the Council were minded to lift the indemnity cap and meet the reasonable costs of the Member in defending the case against him and appealing the decision of the Standards Sub-Committee.

9.6 The Committee is asked to consider whether it wishes to increase the level of the previously agreed indemnity for the Member's legal costs and, if so, to confirm the amount of the revised level of indemnity.

10. LIST OF BACKGROUND PAPERS

10.1 None.

Cleared by Finance (Officer's initials)	MC/JH
Cleared by Legal (Officer's initials)	JEL