

Report to the Cabinet

**Report reference: C/
Date of meeting: 18 December 2006**



**Epping Forest
District Council**

Portfolio: Leader's

Subject: Code of Conduct - Legal Expenses Cover for Councillors

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Recommendations/Decisions Required:

- (1) To approve the provision of legal expenses cover for Councillors who are the subject of complaints regarding alleged breaches of the Council's Code of Conduct as an addition to public liability policy provided by Zurich Municipal, the Council's insurers;**
- (2) To consider the following options for funding the cost of this additional cover:**
 - (a) to approve a CSB growth item in the sum of £1,800 in respect of the additional insurance premium to be included in the draft 2007/8 budget; or**
 - (b) that the premium of £29.50 (plus IPT at 5%) per Councillor be funded by retaining this amount from basic allowance payable to all serving members of the Council and all new councillors from the date when they take up office with effect from the next Council year; and**
- (3) That a report be submitted to the Council recommending that, subject to budgetary provision being made, the additional cover and funding method be approved.**

Report:

1. Overview and Scrutiny was asked to consider ways in which support could be provided whilst investigations, adjudications and possible appeals were in progress as a result of complaints against Councillors about breaches in the Code of Conduct.
2. A review has been undertaken by the Standing Scrutiny Panel for Constitutional Affairs. This has focused on:
 - (a) ways of providing professional/legal advice to those members who are subject to these investigations; and
 - (b) assistance with costs.
3. The background to this review is the difficulty of the Monitoring Officer, Deputy Monitoring Officer and other staff being able to advise during complaints procedures. If those staff have been involved in advising members in various ways prior to a complaint being received. If it is their advice that falls to be

investigated as a result of a complaint, they cannot become involved in the investigation process or in advising members.

4. There may be circumstances where advice can be given by the Monitoring Officer's staff but there can be no guarantee of this until the nature of the complaint is known. Such advice can be given where it has had no prior involvement in the case. The Panel has therefore approached this from the point of view of how to support members if advice cannot be given by an officer.
- ... 5. Attached to this report is a schedule showing the group legal protection policy for Councillors which is offered by the Council's insurers, Zurich Municipal. The cost of this cover is £29.50 per member (plus IPT at 5%) and is only available to all 58 Councillors, not to individuals or any smaller number of councillors. Members will note the long and complex description of the cover provided and the exclusions and the Cabinet is asked to take particular note of the following points:
 - (a) Zurich will represent the person insured and negotiate for their legal rights throughout an investigation conducted by an Ethical Standards Officer (Standards Board for England) or the Monitoring Officer (EFDC);
 - (b) the insurer will defend the person insured at an adjudication and also at an appeal where a suspension, partial suspension or disqualification is proposed;
 - (c) Zurich will pay for all claims resulting from one or more event arising from the same cause up to a figure of £50,000 or an aggregate of £500,000 for all such claims arising in any one period of insurance;
 - (d) Exclusions from the policy include:
 - a time limit for claims (180 days)
 - any legal costs incurred before the insurers agree to pay them
 - any incident prior to the adoption of the policy
 - any criminal proceedings against the Councillor insured
 - any judicial review
 - any questions relating to written or verbal remarks against the Councillor concerned
 - fines or damages payable by the Councillor by order of a court or other authority
 - any legal action which has not been agreed by Zurich
6. Among the conditions attaching to this legal protection policy are two important items set out in (c) and (d) on Page 1. Item (c) refers to the Councillor concerned having agreed to repay any legal costs if he or she is found to be in breach of the Code of Conduct. Item (d) relates to adjudications by the Adjudication Panel for England following a determination by the Standards Board. The Cabinet must be clear that members will only be covered under this policy from the date on which it comes into operation (i.e. when the premium is paid) and will not cover events before that date.
7. As to the funding of the insurance cover, two options are suggested. Firstly to include a growth item in the draft budget for next year to cover the cost of the additional cover or, recognising that the support and assistance afforded through the policy is personal to individual members, to determine that the appropriate deduction be made each year from basic allowance payments in order to fund the cost without the need for a separate CSB budget.

Statement in support of recommended action:

8. Councillors have identified the need for support, guidance and representation during the complaints process where this cannot be given by Council staff. The Zurich Municipal policy provides a basis by which Councillors rights can be represented and appropriate legal advice given. Although the cover does not indemnify members for costs incurred if they are found to have been in breach of the Code of Conduct, it nevertheless does allow members to have proper advice during the process. If a member is found to be in breach of the Code, however the costs incurred will be recovered by the insurer.

Other Options for action:

9. A number of alternatives to the preferred recommendations have been explored. These include reciprocal arrangements on a voluntary basis with Monitoring Officers from other Councils, the engagement of external consultants and the designation of additional members of Council legal or other staff to provide advice where necessary.
10. It is likely to prove difficult to negotiate a reciprocal arrangement with other authorities, as experience indicates that there are workload issues. External consultants, are available to provide advice but this is an expensive option and would not be sustainable. Designating other officers from within the Council is possible but those individuals are likely to be from Legal Services or Research and Democratic Services where other workload responsibilities make this less than realistic.

Consultation undertaken:

Resource implications:

Budget provision: Depending on the funding arrangement agreed: direct funding by the Council would require additional CSB provision of approximately £1,800.

Personnel: Nil

Land: Nil

Community Plan/BVPP reference: None

Relevant statutory powers: Local Government Act 2000

Background papers: Nil

Environmental/Human Rights Act/Crime and Disorder Act Implications: The process for investigating, adjudicating and appealing on complaints against councillors is designed to protect their human rights.

Key Decision reference (if required): Nil