



**Report of the Assistant Chief Executive (Corporate governance) and Director of Resources
Member Management Committee**

Date: 8th October 2008

Subject: Members' Legal Expenses Insurance

Electoral Wards Affected:

Specific Implications For:

Ethnic minorities

Women

Disabled people

Narrowing the Gap

Executive Summary

1. This report advises Members of the current policy in place to indemnify Members against the legal costs of defending themselves from allegations of misconduct and the insurance arrangements in place relating thereto. In addition, difficulties in communicating with the insurers have been experienced by some Members who approached the insurers to obtain legal representation.

1.0 Purpose Of This Report

- 1.1 To advise Members of the Committee of the current policy in place to indemnify Members against the legal costs of defending themselves from allegations of misconduct and advise members how to set in motion the process by which they may obtain legal representation under the insurance arrangements.

2.0 Background Information

- 2.1 The *Local Authorities Indemnities to Members and Officers Order 2004* permitted local authorities to provide an indemnity to members who have been notified that they are to be subjected to a code of conduct enquiry, either by a self funded arrangement or by way of purchasing an insurance policy.
- 2.2 The Order requires that any Member who is so indemnified **must** repay the cost of legal representation if the enquiry concludes with a decision that the Member concerned is in breach of the code of conduct. This applies even if external insurance is arranged. The Council has no discretion over this point.

3.0 Main Issues

- 3.1 Previously it was the case that the Council was not allowed to indemnify Members against the legal costs of defending themselves from allegations of misconduct. Since the 2004 Order, Leeds City Council has arranged to purchase insurance on Members' behalf. Enquiries were made both with the Council's own insurers and via the insurance brokers Marsh Ltd. and Aon Ltd. Both insurance brokers reported that only one insurance product which would cover legal expenses in such circumstances was available from the UK market. This is a legal expenses insurance policy provided by DAS Legal Expenses Insurance Company Ltd (DAS). This product was purchased in 2005 via our main insurers Zurich Municipal who act as an intermediary, and has been renewed each year.
- 3.2 The insurance is designed to provide a safety net for Members who do not have their own insurance arrangements or protection provided by their party group and will only operate if the Member confirms that there is no other insurance or arrangement which would provide the protection they need.
- 3.3 Protection under the policy is set in motion by contacting DAS and notifying of a new claim under the policy (quoting the policy number)
- 3.4 Details of the insurance arrangements were reported to the Standards Committee in March 2006 and are included in the annual letter to members which sets out all of the insurance arrangements specific to members.
- 3.5 Before appointing a solicitor to represent the Member, DAS require details of the allegations and some other basic information. They will then decide if the Member concerned has a reasonable prospect of success in defending against the allegations. If they are satisfied that there is some prospect of a successful defence, they will then appoint a solicitor. If they are not satisfied that there is some prospect of a successful defence, they will decline to appoint a solicitor. If a solicitor is not to be appointed, limited legal advice via the helpline will still be available.
- 3.6 Some Members who have recently been notified that they are to be subjected to a code of conduct enquiry have experienced difficulties in communicating with DAS and obtaining the legal representation they require.
- 3.7 The Members concerned report that despite telephoning DAS using the number mentioned in the insurance policy, DAS have repeatedly failed to clarify exactly what is required to initiate a claim under the policy and provide the necessary legal representation. This was also the experience of the Assistant Chief Executive (Corporate Governance) who telephoned DAS as a "mystery shopper"

4.0 Implications For Council Policy And Governance

- 4.1 Arrangements put in place and paid for by Leeds City Council are not currently deemed fully effective and action is required to correct this situation.

5.0 Legal And Resource Implications

5.1 There are no legal implications. The annual cost of the policy in 2008/9 is £3200

6.0 Conclusions

6.1 Clearly the insurance arrangements do operate despite the problems mentioned in 3.5 as two Members have already benefited from legal representation paid for by the insurers. However, communications have not been satisfactory and action needs to be taken. The Assistant Chief Executive (Corporate Governance) and the Council's Insurance Manager are to meet with representatives from the insurers in October to explain their concerns regarding service delivery and how these can be remedied..

7.0 Recommendations

7.1 It is recommended that Members note the contents of this report and await the outcome of the meeting mentioned in 6.1. In the meantime officers will assess the option of whether the insurance could be brought "in-house" i.e. self insured and if so, how it would be funded..