

**HERTFORDSHIRE COUNTY COUNCIL**

**CABINET  
MONDAY, 20 FEBRUARY 2017 AT 2.00PM**

**COUNTY COUNCIL  
TUESDAY, 21 FEBRUARY 2017 AT 10.00AM**

Cabinet  
Agenda Item No.

**8**

County Council  
Agenda Item No.

**13**

**RETURNING OFFICER AND DEPUTY RETURNING OFFICERS -  
INDEMNITY**

Report of the Chief Executive

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Executive Member: Robert Gordon, Leader of the Council

**1. Purpose Of Report**

1.1 To inform Council of the position concerning personal liability of the Returning Officer and the Deputy returning Officers for County Council elections.

**2. Summary and Background**

2.1 The Returning Officer for County Council elections is the Chief Legal Officer. In order to assist in the administration and running of County Council elections the Returning Officer appoints Deputy Returning Officers. The Deputy Returning Officers comprise County Council and District Council employees.

2.2 When undertaking the role of Returning Officer or Deputy Returning Officer the individuals are personally responsible for the legality of the election and matters associated with the election.

2.3 The County Council has effected insurances in respect of the Returning Officer's and Deputy Returning Officers' (the Deputy Returning Officers are referred to as "election officials" under the insurance policies) liability but this does not remove the personal liability on these individuals and so there is a need for an indemnity in particular to cover the deductibles on the insurances (elections, public liability and employer's insurance) and any other amounts not covered by the insurances.

- 2.4 The Council does not have a history of challenge to its elections or claims arising from it and so the risk of a call on any indemnity is low but the impact of a claim would be significant on the individual.
- 2.5 In 2013, the County Council agreed to grant an indemnity to the Returning Officer for any personal liability arising directly or indirectly from her appointment by the Council as Returning Officer for the County Council election in May 2103 and for subsequent Council elections.
- 2.6 The giving of an indemnity to the Returning Officer and Deputy Returning Officers is one which many authorities do give and it is recommended by the Association of Electoral Administrators. It is also consistent with the practice of central Government in relation to National elections.
- 2.7 The County Council does have power to enter into an indemnity in respect of this potential liability under the Local Authorities (Indemnities for Members and Officers) Order 2004, under 111 of the Local Government Act 1972 as facilitating, or being conducive or incidental to, the discharge of the Council's functions and also under the general power of competence in s1 Localism Act 2011.

### **3 Financial Implications**

- 3.1 There are no financial implications specifically arising from this report, although there would be a cost to the Council if any indemnity is called upon.

### **4 Recommendation**

- 4.1 Cabinet is invited to recommend to Council that the County Council:
  - (a) Notes that Council agreed to grant an indemnity to the Chief Legal Officer for any personal liability arising from her appointment by the Council as Returning Officer for the County Council elections in 2013 and thereafter and that that indemnity is on going
  - (b) Agrees to fully, promptly and effectively indemnify and keep indemnified Deputy Returning Officers appointed to act on each County Council election from and against all liabilities, losses, actions, proceedings, damages, costs, claims, demands and expenses brought or made against or suffered or incurred by the Deputy Returning Officers directly or indirectly arising out of or in connection with undertaking the role of Deputy Returning Officer in consequence of conducting the County Council election in May 2017 and any subsequent election to the County Council
  - (c) The indemnity referred to in (b) above will not extend to loss caused by or arising from:

- i) any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the Deputy Returning Officer
  - ii) any act or omission of the Returning Officer otherwise than in the capacity as Deputy Returning Officer
  - iii) insofar as any of the matters mentioned in (b) above are covered by insurance.
- (d) Agrees that this indemnity will cover where the act or failure to act was outside the powers of the authority, or outside the powers of the Deputy Returning Officer, where the Deputy Returning Officer reasonably believed that the act or failure to act was within the powers of the authority and within the powers of the Deputy Returning Officer at the time that they acted or failed to act, as the case may be.
- (e) Agrees that this indemnity will not seek to recover from the Deputy Returning Officer any loss which it has suffered as a consequence of any act or omission by them in their capacity as Deputy Returning Officers, subject to the exceptions in (c) above and (f) below.
- (f) Agrees that this indemnity may not apply if the Deputy Returning Officer, without the express permission of Hertfordshire County Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this indemnity.

4.2 Cabinet's recommendation(s) to Council will be tabled at the County Council meeting on 21 February 2017.

*Background Information*

Report to County Council – 26 March 2013  
[County Council 26 March 2013](#)