

## Appendix One

### Terms of Indemnity

- 1 The Authority will, subject to the exceptions set out below, indemnify each of its members and employees against any loss or damage suffered by the member or officer arising from his/her action or failure to act in his/her capacity as a member or officer of the authority.

This indemnity will not extend to loss or damage directly or indirectly caused by or arising from:

- 1.1 any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the member or officer;
  - 1.2 any act or failure to act by the member or employee otherwise than in his/her capacity as a member or officer of the authority, or
  - 1.3 failure by the member to comply with the authority's Code of Conduct for Members.
- 2 The authority will, subject to the exceptions set out below, indemnify each of its members and officer against the reasonable costs which he/she may incur in securing appropriate legal advice and representation in respect of any civil or criminal proceedings or Part 3 proceedings to which he/she is subject.
  - 2.1 "Criminal proceedings" includes any interview or investigation by the Police, and any proceedings before a criminal court, in the United Kingdom.
  - 2.2 "Part 3 proceedings" means any investigation or hearing in respect of an alleged failure to comply with the authority's Code of Conduct for Members under Part 3 of the Local Government Act 2000.
  - 2.3 This indemnity will not extend to Part 3 proceedings where the allegation has been referred to the Monitoring Officer for local investigation and/or determination by the Standards Committee.
  - 2.4 This indemnity shall not extend to any advice or representation in respect of any claim or threatened claim in defamation by or against the member or officer.
  - 2.5 Where any member or officer avails him/herself of this indemnity in respect of defending him/herself against any criminal proceedings or Part 3 proceedings, the indemnity is subject to a condition that if, in respect of the matter in relation to which the member or officer has made use of this indemnity –
    - 2.5.1 the member or officer is convicted of a criminal offence in consequence of such proceedings, or
    - 2.5.2 a Case Tribunal or Standards Committee determine that the member has failed to comply with the Code of Conduct for Members

and the conviction or determination is not overturned on appeal, the member shall reimburse the authority for any sums expended by the authority pursuant to the indemnity.

- 2.6** Where the authority arrange insurance to cover its liability under this indemnity, the requirement to reimburse in Paragraph 2.5 shall apply as if references to the authority were references to the insurer.
- 3** For the purpose of these indemnities, a loss or damage shall be deemed to have arisen to the member or officer "in his/her capacity as a member or officer of the authority" where:
- 3.1** The act or failure to act was outside the powers of the authority, or outside the powers of the member or officer, but the member or officer reasonably believed that the act or failure to act was within the powers of the authority or within the powers of the member or officer (as appropriate) at the time that he/she acted or failed to act, as the case may be;
- 3.2** The act or failure to act occurred not in the discharge of the functions of the member or officer as a member or officer of the authority but in their capacity as a member or employee of another organisation, where the member or officer is, at the time of the action or failure to act, a member or employee of that organisation either –
- 3.2.1** in consequence of his/her appointment as such member or officer of that organisation by the authority; or
- 3.2.2** in consequence of his/her nomination for appointment as such member or officer of that organisation by the authority; or
- 3.2.3** where the authority has specifically approved such appointment as such a member or employee of that organisation for the purpose of these indemnities.
- 4** The authority undertake not to sue (or join in action as co-defendant) an officer of the authority in respect of any negligent act or failure to act by the officer in his/her capacity as an officer of the authority, subject to the following exceptions:
- 4.1** Any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the officer; or
- 4.2** Any act or failure to act by the officer otherwise than in his/her capacity as a member or officer of the authority.
- 5** These indemnities and undertaking will not apply if a member or officer, without the express permission of the Authority or of the appropriate officer of the authority, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of the resolution.

- 6 These indemnities and undertaking are without prejudice to the rights of the authority to take disciplinary action against an officer in respect of any act or failure to act.
- 7 These indemnities and undertaking shall apply retrospectively to any act or failure to act which may have occurred before this date and shall continue to apply after the member or officer has ceased to be a member or officer of the authority as well as during his/her membership of or employment by the authority.