

# **MEETING OF THE COUNCIL**



**Thursday, 22nd April, 2010**

**7.00 pm**

**Council Chamber  
Thanet District Council  
Margate**

**[www.thanet.gov.uk](http://www.thanet.gov.uk)  
01843 577000**

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Date: 19 April 2010  
Our ref:  
Ask For: Eileen Richford  
Direct Dial: (01843) 577199  
Email: eileen.richford@thanet.gov.uk



You are hereby summoned to attend the meeting of the Thanet District Council to be held in Council Chamber, Cecil Street, Margate, Kent the on Thursday, 22 April 2010 at 7.00 pm for the purpose of transacting the business mentioned below.

A handwritten signature in black ink that reads "G. Bach".

Democratic Services Manager

To: The Members of Thanet District Council

**FIRE ALARM PROCEDURES:** If the fire alarm is activated, please vacate the offices via the stairs either through the security door to the left of the Chairman or opposite the lifts in the foyer. Please do not use the lifts. Please assemble in Hawley Square on the green. Officers will assist you and advise when it is deemed safe to return to the Chamber.

**SUPPLEMENTARY A G E N D A**

Item  
No

Subject

14. **MEMBERS ALLOWANCES SCHEME: REVIEW FOR 2010/11** (Pages 1 - 2)

Report of the Head of Legal and Democratic Services and Monitoring Officer attached.

16. **OFFICER INDEMNITIES** (Pages 3 - 6)

Report of the Head of Legal and Democratic Services and Monitoring Officer attached.

Members are advised to note that the report covers Indemnities for Officers and Members Serving on External Bodies.

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## Thanet District Council

### **MEMBERS ALLOWANCES - 2010/11**

To: **Council 22 April 2010**

By: **Harvey Patterson, Monitoring Officer**

Classification: **Unrestricted**

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**Summary:** To note that the majority group intends to make its own proposals on members allowances for 2010/11 that will identify the savings envisaged by 20120/11 budget and that members generally will be able to respond to such proposals at the Annual Meeting and/or by making representations to the East Kent Joint Independent Remuneration Panel

### **For Noting**

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#### **1.0 Background**

1.1 At the last Council meeting members considered the report of the Head of Legal Services concerning a Scheme of Allowances for 2010/11 recommending (a) that beginning in 2010/11 members allowances be set over a financial year and (b) that £23,340 savings be identified in the proposed scheme of allowances for 2010/11 this being necessary to achieve the savings set out in the approved 2010/11 budget. Council approved the principle of moving members' allowances to a financial year basis but requested further consultation with the party groups on how the requisite savings might be identified. In particular, in response to one of the potential areas for savings identified by the Head of Legal Services - a reduction in the number of Cabinet portfolios - the point was made that the need to make savings should not constrain the discretion of the Cabinet Leader to select a Cabinet the composition of which he or she considered would best deliver on the Council's priorities.

#### **2.0 Current Position**

2.1 It was originally proposed that the party groups each appoint representatives and meet with the Head of Legal Services on 26 March 2010 to consider the savings options and see if consensus could be found on how the necessary savings might be made. However, the view was subsequently taken that as Special Responsibility Allowances constituted a significant component of any allowances scheme and were largely the preserve of the majority group it would be more appropriate if the majority group Leader formulated the proposals of the majority group on a scheme of allowances which would not only identify their proposals on how the requisite savings would be made, but also take into account the proposed size and composition of the Cabinet.

2.2 As a result, the Head of Legal Services will be liaising with the majority Group to ensure the presentation of a compliant Scheme of Allowances for consideration and adoption at the Annual Meeting of Council. Members will be able to debate the proposed Scheme in the usual way and propose amendments thereto. However, as in previous years any Scheme made by Council will remain provisional until it has been considered by the East Kent Joint independent Panel and members will also have the opportunity of making representations to the Panel. The Panel is under a duty to prepare a report on the Scheme which, when received, will be reported to the next available Council meeting.

The Council is under a duty to have regard to the recommendation of the Panel and can, if necessary, amend the Scheme in the light of the recommendations made.

### **3.0 Corporate Implications**

#### **3.1 Financial**

3.1.1 There is a need to identify savings of £23,340 in the 2010/1 Scheme of Allowances

#### **3.2 Legal**

3.2.1 As set out in the report

#### **3.3 Corporate**

3.3.1 As set out in the report.

#### **3.4 Equalities**

3.4.1 None apparent

### **4.0 Recommendations**

4.1 That the report be noted

#### **Background Papers**

*None*

Contact Officer: *Harvey Patterson, Head of Legal & Democratic Services*

Reporting to: *Richard Samuel, Chief Executive*

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## Thanet District Council

### **INDEMNITIES FOR OFFICERS AND MEMBERS SERVING ON EXTERNAL BODIES**

To: **Council 22 April 2010**

By: **Harvey Patterson, Monitoring Officer**

Classification: **Unrestricted**

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**Summary:** **To recommend that the Council give a qualified indemnity to officers and members who are nominated or appointed by the Council or Cabinet to serve on outside bodies**

#### **For Decision**

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#### **1.0 Background**

- 1.1 Members and officers of local authorities can incur personal, civil and criminal liability as a result of their actions, both within the authority and as a result of their actions carried out on behalf of a wide range of outside bodies.
- 1.2 Whilst members and officers enjoy statutory immunity from civil liability where they act within the powers of the authority in good faith and without negligence, this immunity does not apply where they go beyond the powers of the authority or act in bad faith or negligently.
- 1.3 Where they are acting on outside bodies to which they may have been appointed by the authority, it does not protect them from criminal liability, for example for fraud, or where they exercise managerial responsibilities.
- 1.4 Local authorities have always had broad powers to give officers an indemnity against such liability as part of their terms and conditions of employment. This enables the Council to take out insurance centrally to cover this risk and the Council currently maintains an Officials Indemnity Policy that provides cover for loss or negligence claims not exceeding £1 million pounds in each policy year
- 1.5 Until 2004 the ability of the Council to grant such an indemnity to members rested on a single court judgment which permitted the Council to agree to underwrite the member's legal costs in being represented before the District Auditor. However, the Local Authorities (Indemnities for Members and Officers) Regulations 2004, gave a specific power to the Council to grant indemnities, and/or to take out insurance, to cover the potential liability of members and officers in a wide range of circumstances. As a result, members are now covered also by the Officials Indemnity policy for loss or negligence arising out of the performance of their functions within the Council.
- 1.6 However, such insurance would not cover claims arising out of the conduct of officer or members nominated or appointed by the Council to serve on an outside body and therefore it is considered that the limited indemnity described below should be given by the Council to any such officers or members.

## **2. LIMITED INDEMNITY**

2.1 The 2004 Regulations permit the Council to grant members and officers an indemnity against liabilities which they incur as members of outside bodies where the appointment of the member or officer to the outside body is at the request of, or with the approval of, the Council for the purposes of the Council. Consequently, it recommended that any member or officer appointed or nominated by the Council or Cabinet to an outside body to further the broader interests of the Council, should be indemnified by the Council against personal liability for loss or damage arising out of or in connection with the exercise of such nomination or appointment. However, such indemnity should not be open-ended and the following limitations are recommended:-

- (a) No indemnity is given for liability arising out of or in connection with conduct which is criminal in nature;
- (b) No indemnity is given for liability arising out of or in connection with conduct which is fraudulent or constitutes wrongdoing;
- (c) No indemnity is given for liability arising out of or in connection with conduct which is reckless;
- (d) No indemnity is given for liability arising out of or in connection with the external body acting outside its powers
- (e) No indemnity is given for defending defamation proceedings.
- (f) If the external body maintains negligence or liability insurance, the Council's indemnity only applies to the extent that any loss or damage is not covered by such insurances (for the avoidance of doubt any policy excess to which the officer or member will be liable is covered by the Council's indemnity)

2.2 In fact, the limitations described in (a) to (d) above are prescribed by the Regulations. The limitation described in (e) above is recommended to protect the public purse as members and officers will normally have the benefit of qualified privilege when speaking at meetings of the external body. Finally, the limitation in (f) above is also recommended to protect the public purse.

## **3.0 Corporate Implications**

### **3.1 Financial**

3.1.1 Given the limitations applied to the indemnity, the financial risk to the Council is considered low.

### **3.2 Legal**

3.2.1 As set out in the report

### **3.3 Corporate**

3.3.1 The giving of a limited indemnity will enable members to confidently and responsibly represent the Council's interests on external bodies without fear of incurring personal liability.

### **3.4 Equalities**

3.4.1 None apparent

#### **4.0 Recommendations**

- 4.1 The Council agrees indemnify officers and members against loss or damage arising out of or in connection with their nomination or appointment by the Council or the Cabinet to an external body but subject to the limitations set out in Paragraphs 2.1 (a) to (f) of the officers report .

#### **Background Papers**

*None*

Contact Officer: *Harvey Patterson, Head of Legal & Democratic Services*  
Reporting to: *Richard Samuel, Chief Executive*

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