

READING BOROUGH COUNCIL
REPORT BY MANAGING DIRECTOR

TO:	POLICY COMMITTEE		
DATE:	13 APRIL 2015	AGENDA ITEM:	15
TITLE:	PARLIAMENTARY GENERAL ELECTION - INDEMNITY		
LEAD COUNCILLOR:	CLLR LOVELOCK	PORTFOLIO:	CORPORATE SERVICES
SERVICE:	ELECTIONS	WARDS:	BOROUGHWIDE
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1. PURPOSE AND SUMMARY OF REPORT

- 1.1 To request an indemnity in respect of any claims made against the (Acting) Returning Officer in respect of the 2015 general election, and future elections, which are not covered by the Council's insurance policy.
- 1.2 Responsibility for running Parliamentary General Elections is personal to the Returning Officer, to whom the writ is sent directly by the Crown. Any insurance claims arising from the running of the election and count will therefore be made against the (Acting) Returning Officer in respect of his/her own actions or those of his/her staff.
- 1.3 The Council's insurance policy provides insurance cover for the (Acting) Returning Officer, but has an excess provision which excludes the first £100,000 of any claim. The (Acting) Returning Officer may also be personally responsible for the costs of defending an electoral petition.

2. RECOMMENDED ACTION

- 2.1 That the Returning Officer / (Acting) Returning Officer be granted an indemnity, under the provisions of the Local Authority (Indemnity for Members and Officers) Order 2004, to cover all costs arising from the conduct of the 2015 parliamentary and local elections, and future parliamentary, European and local elections and referendums by himself and his staff which are not covered by the Council's insurance policy with QBE.

3. POLICY CONTEXT

- 3.1 Council on 30 March 2010 (Minute 64 refers) granted the Returning Officer/Acting Returning Officer an indemnity, under the provisions of the Local Authority (Indemnity for Members and Officers) Order 2004, to cover all costs arising from the conduct of the 2010 parliamentary elections, and future parliamentary, European and local elections, by himself and his staff which were not covered by the Council's insurance policy with (then) Travelers Insurance.

3.2 In 2013 the Council changed the company with which it has an insurance policy, to QBE Insurance.

4. THE PROPOSAL

4.1 The Association of Electoral Administrators (AEA) handbook stresses the importance of (Acting) Returning Officers having adequate and appropriate insurance in respect of claims made against them. The same point is made in all AEA training sessions.

4.2 The Council's Insurance Policy indemnifies the Returning Officer or (Acting) Returning Officer at elections or persons officially acting for him/her during the course of their duties in respect of:

- Negligent act or omission or accidental error
- Breach of statutory duty (without the need to prove carelessness)
- Breach of common law duty of care arising from the imposition of a statutory duty or from its performance
- Misfeasance in a public office
- Breach of trust
- Breach of warranty of authority

4.3 The indemnity applies where the (Acting) Returning Officer or persons acting for the Returning Officer believed that an action or a failure to act in question was within the powers of the (Acting) Returning Officer, and it was reasonable for the person to hold that belief at the time of the action or inaction.

4.4 The Council's Insurance Policy has an excess clause, of £100,000, before any insurance claim is paid.

4.5 The AEA specifically draws (Acting) Returning Officers' attention to the importance of having adequate insurance cover to cover the costs of defending a petition. The (Acting) Returning Officer is personally liable and will have to pay any legal costs involved where an electoral petition complains of the conduct of the (Acting) Returning Officer and s/he is deemed to be the respondent to the petition.

4.6 I should make clear that in the circumstances described in 4.2, the granting of an indemnity would not in any way restrict the ability of the authority from taking disciplinary action against the (Acting) Returning Officer.

5. CONTRIBUTION TO STRATEGIC AIMS

5.1 Electoral Registration contributes to meeting the strategic aims by facilitating the participation of local people in local democracy and effective consultation.

6. COMMUNITY ENGAGEMENT AND INFORMATION

6.1 Not applicable in this case.

7. EQUALITY IMPACT ASSESSMENT

7.1 Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to—

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7.2 In this regard you must consider whether the decision will or could have a differential impact on: racial groups; gender; people with disabilities; people of a particular sexual orientation; people due to their age; people due to their religious belief.

7.3 An equality impact assessment is not appropriate in this case as only one person - the Head of Legal & Democratic Services - is directly affected by the decision.

8. LEGAL IMPLICATIONS

8.1 The Head of Legal & Democratic Services, Chris Brooks, was appointed by full Council, on 25 January 2011, as the authority's Electoral Registration Officer under Section 8(2) of the Representation of the People Act 1983, and Returning Officer for local elections under Section 35 of that Act (Minute 58 (2) refers).

8.2 Under Section 24 of the Representation of the People Act 1983, the Returning Officer for a Borough constituency (Reading East) is the chairman of the council (the Mayor); and the Returning Officer for a County constituency (Reading West) is the High Sheriff. Under Section 28(1) the Borough's Electoral Registration Officer is required to discharge these functions on their behalf as (Acting) Returning Officer.

8.3 The Council can grant an indemnity under the provisions of the Local Authority (Indemnities for Members and Officers) Order 2004.

9. FINANCIAL IMPLICATIONS

9.1 An indemnity will involve no cost to the Council unless a claim is made against the (Acting) Returning Officer, in which case the authority will pay any costs for which otherwise s/he would be personally liable. These will include the first £100,000 of any claim (ie the amount covered by the excess clause in the Council's insurance policy); and the costs of defending a electoral petition.

10. BACKGROUND PAPERS

Association of Electoral Administrators' Handbook
QBE Insurance Policy