

**HEREFORD AND WORCESTER FIRE AND RESCUE AUTHORITY**

**INDEMNITY**

**THIS INDEMNITY** is in the form of a deed and is given by **HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY** to its **MEMBERS AND OFFICERS** from time to time and shall commence on the [     September ] 2011 and remain in force until revoked.

This indemnity is made under Sections 111 and 112 of the Local Government Act 1972, The Local Authorities (Indemnities for Members and Officers) Order 2004 and any other powers so enabling.

This indemnity supersedes and replaces any previous indemnity given by the Authority.

1. The Authority will, subject to the exceptions set out below, indemnify each of its Members (including Independent Members) and officers 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 or 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 officers 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 of the Local Government Act 2000.

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 The Authority will not indemnify a Member or officer who is a claimant in defamation proceedings on the ground that he or she has been defamed. However, the Authority will provide a Member who is the subject of an allegation of defamation against him or her (which was allegedly committed in the course of his or her duties) with an indemnity in relation to his or her reasonable costs in connection with the proceedings.

2.4 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, or defamation 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.

2.4.1 the Member or officer is convicted of a criminal offence in consequence of such proceedings and that conviction is not overturned following any appeal; or

2.4.2 a Case Tribunal or Standards Committee determine that the member has failed to comply with the Code of Conduct for Members and that finding is not overturned following any appeal or if the Member admits that he has failed to comply with the Code of Conduct; or

2.4.3 the Member or officer is found to have committed the defamation.

That Member or officer shall reimburse the authority for any sums expended by the Authority pursuant to the indemnity.

2.5 Where the Authority arranges insurance to cover its liability under this indemnity, the requirement to reimburse in Paragraph 2.4 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 he or 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 officer of another organisation, where the Member or officer is, at the time of the action or failure to act, a Member or officer 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 officer of that organisation for the purposes of these indemnities.

4. Each Member or officer who avails himself or herself of the benefit of an indemnity agrees to:

4.1 Inform the Clerk

4.1.1 of any potential claim which might give rise to proceedings relating to or arising out of any act or failure to act by him or her within 7 calendar days of his or her being informed or becoming aware of the potential claim; or

4.1.2 of his or her being served with notice of court proceedings having been commenced against him or her, within 2 calendar days of the service of notice of the proceedings in respect of the claim; and

4.1.3 to inform and keep informed the Clerk of the progress of any potential claim or proceedings in respect of the claim, and the terms of any proposed settlement of the claim.

5. The Authority may on the advice of the Clerk, impose any additional terms for the grant of the indemnity as may be considered appropriate or necessary for the proper application of this policy and/or for securing the reimbursement of any sums which the Member or officer may be required to repay in connection with criminal offences and code of conduct proceedings where the Member or officer has been found to be guilty of an offence or failed to comply with the code of conduct. The Clerk shall be entitled on behalf of the Authority to refuse to pay any costs which in his opinion are unreasonably incurred by the Member or Officer.

6. These indemnities will not apply if a Member or officer, without the express permission of the Authority or of the appropriate officer of the Authority (Clerk) admits liability or negotiates or attempts to negotiate a settlement of the claim.

7. These indemnities 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.

8. These indemnities and undertaking shall apply retrospectively to any act or failure to act which may have occurred before the commencement date of this deed of indemnity 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 or employment or period of office with the Authority.

9. Where a Member or officer fails to repay any sum that he/she is obliged to reimburse to the Authority or its insurer the sums shall be recoverable by the Authority or its insurer (as the case may be as a civil debt).