



Report to Buckinghamshire Shareholder Committee

Date:	13 March 2024
Title:	The Local Authority (Indemnities for Members and Officers) Order 2004
Cabinet Member(s):	John Chilver, Chairman of the Buckinghamshire Shareholder Committee
Contact officer:	Jenny Caprio, Head of Legal Services and Deputy Monitoring Officer – Jenny.Caprio@buckinghamshire.gov.uk
Ward(s) affected:	Not ward specific
Recommendations:	<p>Pursuant to the Local Authority (Indemnities for Members and Officers) Order 2004, the Council agrees to indemnify Members and Officers against any personal liability incurred when carrying out their duties, (except in the cases of fraud or criminal acts), including in relation to appointments to other bodies controlled or not controlled by the Council.</p> <p>The Director of Law and Governance be authorised to finalise the wording of the indemnity in consultation with the S151 Officer.</p>
Reason for recommendation:	To ensure that Council Members and Officers are protected from any personal liability when carrying out their duties.

1. Background

- 1.1 Under Section 265 of the Public Health Act 1875 councillors and local authority officers, when acting in the course of their duties and in good faith, have statutory

immunity and are not personally liable for the actions they take and the Act provides for an indemnity in relation to potential liabilities and also costs.

- 1.2 Under the Local Authority (Indemnities for Members and Officers) Order 2004, authorities have power to indemnify Members and officers in circumstances, including where they are carrying out any function at the request, with the approval, or for the purposes, of the authority; but acting in capacities other than as Members or officers of the authority. An example of this would be where a Member or Officer acts as a director of a company at the request of the authority and is, therefore, acting in the capacity of a director.
- 1.3 Prior to 2020, Legacy Councils had varying arrangements in place to confirm that Officers and Members would be indemnified under the 2004 Order, referring specifically to those appointed to wholly owned companies such as Buckinghamshire Advantage, London Road Business Park Management Ltd and Consillio Property Ltd; as well as Aylesbury Vale Estates a limited liability partnership (OC348364).
- 1.4 Following the recent changes with the integration of the LEP into the Council, there is an opportunity to, it is recommended that, confirmed and widen the indemnity to give a general indemnity rather than seeking specific indemnities for particular activities.

2. Other options considered

- 2.1 The option of considering separate requests for indemnities in relation to specific activities is not recommended.

3. Financial implications

- 3.1 There are no direct financial implications resulting from this report. If, however, the Council agrees to put in place the recommended indemnity, it will commit the Council to the payment of costs involved in the defence of proceedings against a Member or officer (limited to those which are reasonable and necessary).

4. Legal Implications

- 4.1 Under The Local Authorities (Indemnities for Members and Officers) Order 2004 the Council is empowered to offer an indemnity for Members and officers as proposed in this report.

5. Corporate implications

- 5.1 If the Committee agrees to put the recommended indemnity in place, the Committee will be enabling Officers and Members to be fully supported when carrying out their roles within the other organisations.

6. Next steps and review

- 6.1 The precise wording of the indemnity will be finalised as set out in the recommendations.

