

**Committee:** Council

**Agenda Item**

**Date:** 4 April 2017

**11**

**Title:** Indemnity for the Returning Officer

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Item for decision:  
yes/no

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## Summary

1. The Returning Officer carries personal liability for the conduct of elections as well as for their employees (whether or not they are also employees of the Council) and the public attending premises in connection with an election.
2. The Council pays the insurance premium in respect of these liabilities for the Returning Officer. However, it has been identified that there is an excess in relation to the insurance policies, which Council is requested to indemnify the Returning Officer for.

## Recommendations

3. That Council indemnifies the Returning Officer against any excess or liability not covered by the relevant insurance policies.

## Financial Implications

4. There is currently an excess of £1000 in respect of public liability and £5000 in respect of employer's liability; there is no excess relating to the conduct of elections for the Returning Officer.

## Background Papers

5. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

None

## Impact

- 6.

Communication/Consultation	No relevant issues
Community Safety	No relevant issues
Equalities	No relevant issues
Health and Safety	The policies cover injuries arising in connection with the elections, for example at polling stations, incurred by staff and the

	public.
Human Rights/Legal Implications	The general powers of S112 of the Local Government Act 1972 and the Local Authorities (Indemnities for Members and Officers) Order 2004 provide for the Council to meet the costs of insurance applicable to the Returning Officer.
Sustainability	No relevant issues
Ward-specific impacts	No relevant issues
Workforce/Workplace	Some employees of the Returning Officer are also employees of the Council and would be covered by the policies referred to in the event of injury.

## Situation

7. The Returning Officer has personal liability for the conduct of elections; this includes liabilities arising in connection with their status of employer to all those working in connection with the election and to public liability. This liability is completely separate to the Returning Officer's role as Chief Executive. This means that any action taken to question the validity of the Returning Officer's decisions or the proper conduct of the election process will be taken against the Returning Officer personally.
8. The Returning Officer is therefore strongly recommended to have in place adequate insurance for the purposes of conducting elections and liabilities arising from accidents and injuries to the public. As the employer of election staff, it is a statutory duty for the Returning Officer to carry employers' liability cover.
9. The Council pays for this insurance cover on behalf of the Returning Officer. However, it has been identified that an excess of £1000 applies to any one event in relation to public liability and £5000 excess applies to any one event in relation to employer's liability. There is no excess relating to the conduct of elections, for example in the event that there is a challenge to the decision of the Returning Officer.
10. It has been identified that most, if not all other local authorities, indemnify their Returning Officers against these excesses and any other liabilities not covered by insurance.
11. In this report, reference to Returning Officer includes reference to Deputy and/or Acting Returning Officer, as appropriate.

## Risk Analysis

- 12.

Risk	Likelihood	Impact	Mitigating actions
<p>The risk that the Council has to pay the excess or for a liability not covered by the insurances held by the Returning Officer</p>	<p>2</p>	<p>2</p>	<p>Only one claim by a member of the public for personal injury, arising from the conduct of elections, can be recalled at Uttlesford.</p> <p>The Returning Officer takes all reasonable steps to minimise the likelihood of claims arising, including regular training, employment of competent staff and provision of training to them, undertaking proper project planning and risk assessments as well as arrangements to inspect every polling station.</p>

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.