

## **CORPORATE SERVICES AND ECONOMIC GROWTH OSC**

**3 SEPTEMBER 2018**

### **CALL IN: PROVISION OF INDEMNITIES IN RESPECT OF LEGAL COSTS EXTRACT FROM CABINET MINUTES - 24 JULY 2018**

#### **26. REPORT OF THE LEGAL SERVICES MANAGER**

##### **Provision of Indemnities in Respect of Legal Costs**

The report sought Cabinet's agreement to grant indemnities in respect of legal costs likely to have to be incurred by Councillor Peter Jackson, Councillor John Riddle and Mrs Daljit Lally OBE in respect of the matters outlined in the report (copy attached to the signed minutes as Appendix B).

The report was presented by Councillor Oliver, who set the background to the current position and the proposal to provide an indemnity to the individuals concerned. This was as a result of the threat of legal action from the developer of the Dissington Garden Village site, and legal advice from Anthony Collins Solicitors suggested that the the individuals should have an legal representation separate to that of the Council, which the indemnity would be in respect of. He detailed the recommendations which had been carefully considered, and commented that it was very important for officers to be protected in carrying out their duties, and not to feel threatened. This was important both for the individual and for the Authority in recruiting and retaining good quality staff. He hoped all political parties would ascribe to that view. Over aggressive legal tactics needed defending against.

Councillor Wearmouth agreed with these sentiments and felt that people in any organisation needed to be able to go about their lawful duties without fear, and that any employer or trade union should support that. He welcomed the clarity of the report and the limits expressed on the level and terms of the indemnity.

Councillor Sanderson agreed and commented that this was not an unusual arrangement to be set up. He fully supported the recommendations.

Councillor Daley queried whether there was any link between the indemnity for the three individuals mentioned regarding the developer of the Dissington Garden Village, and the indemnity for Councillor Jackson and Mrs Lally from a former employee. Mr Henry confirmed there was no link, they were simply presented in the same report for convenience.

Councillor Daley also queried whether the proposals were legal and reasonable in the circumstances. Mr Henry confirmed that, in his opinion as monitoring officer and in the opinion of Counsel, the proposals were entirely lawful under the Local Authorities (Indemnities for Members and Officers) Order 2004. There was no evidence of any wrongdoing from the individuals concerned and an independent report had supported that. Safeguards to the indemnity were dictated by the Order, and the financial limits were set by Cabinet. He felt these were reasonable, though Cabinet could of course change them if it wished.

For clarity, Councillor Daley then read through each of the recommendations.

**RESOLVED** unanimously that an indemnity be provided to Councillors Peter Jackson and John Riddle, and to Mrs Daljit Lally OBE for the purposes of obtaining independent legal advice and representation in respect of the action proposed by the developers of the Dissington Garden Village, and a similar indemnity be provided to Councillor Peter Jackson and Mrs Daljit Lally OBE in respect of action proposed by a former employee, subject to the following terms:

- a. That it covers, retrospectively, and on the terms set out below, the cost of any legal advice which they have obtained in respect of this matter between the issuing of the letter before action on 28 June and the date of this approval;
- b. That the fees of the legal representatives payable by the Council are capped at a level to be agreed by the Council's Cabinet;
- c. That the indemnity is restricted to £10,000 in the first instance with any further advance in tranches of no more than up to £15,000 on each occasion; which extension is only to be agreed following receipt of Counsel's opinion that it is reasonable for the Council to extend the indemnity;
- d. That any costs recovered via any orders or negotiated settlement made in favour of Councillors Jackson, Riddle and Mrs Lally are paid to the Council;
- e. That the indemnity will not apply to legal representation for any action committed by Councillors Jackson and Riddle and Mrs Lally which is outside their authority from the Council; where their actions were fraudulent, deliberately wrong or reckless or not authorised by the Council; were outside the powers of the Council; or where the matter exceeded their own powers and it was not reasonable for them to believe that their actions were within those powers;
- f. That if a Court finds that if all of any of Cllrs Jackson and Riddle, or Mrs Lally behaved improperly, illegally and outside their authority in relation to the developers, then the Council is entitled to be refunded all costs paid out under the indemnity.