

My Ref

FOI/CORP/ACTS/40A

Your Ref

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29 March 2010

Dear Mr Nunn

Freedom of Information Act 2000 – Information Request No. 805

Further to your request for further information relating to Freedom of Information Request No.805 I would clarify as follows.

The Council has a power under the Local Authorities (Indemnities for Members and Officers) Order 2004 to grant a legal Indemnity to Officers and Members - no general policy applies - but at its meeting on 25 February 2010 the Council's Organisation & Resources Committee resolved to grant an indemnity in the following stipulations to Councillor Bernard Theobald and Duncan Sharkey - Chief Executive.

The terms of the resolution are as follows:

RESOLVED that:

- (a) the granting of indemnities to Councillor Bernard Theobald and Duncan Sharkey, Chief Executive in accordance with the principles, detailed at (i) to (vi) below, be approved;
 - (i) the indemnities shall apply only to actions or failures to act of those individuals falling within article 5 of the Local Authorities (Indemnities for Members and Officers) Order 2004 including such acts which are outside the powers of the Authority where the requirements of article 7 of the Order are met;
 - (ii) the indemnities shall not apply to actions or failures to act which constitute a criminal offence or are the result of fraud or other deliberate wrongdoing or recklessness by those individuals;
 - (iii) the indemnities shall cover and only cover legal costs incurred in defending civil legal proceedings (including defamation and civil proceedings that also constitute a criminal offence) arising out of the Audit Commission investigation and report on governance at the Council and to the extent that they are not covered by the Council's existing insurance arrangements;

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- (iv) if the individual is found liable in any civil proceedings and that liability is not overturned on appeal that individual shall reimburse the authority for any sums expended by the authority in relation to those proceedings pursuant to the indemnity;
 - (v) the indemnities shall not cover the costs of the defence of criminal proceedings or the defence of any investigation, report, reference, adjudication or any other proceeding pursuant to Part 3 of the Local Government Act 2000; and
 - (vi) the financial value of the indemnity to be capped at an aggregate (regardless of the number of claims) of £10,000 or such larger amount as the Director of Resources may in his sole and absolute discretion determine from time.
- (b) that authority to determine the detailed provisions of any such indemnity approved with the defined scope as detailed above be delegated to the Director of Strategy and Regeneration, in consultation with the Chairman of the Organisation and Resources Committee.

Clearly at the time of this decision Duncan Sharkey was the Chief Executive of WLDC - he has since left the employment of the Council but any Indemnity would only cover any actions taken while he was a serving officer of the authority. Councillor Theobald is a serving Member of WLDC. There are no other indemnities for Members of Officers at WLDC.

I would also advise that the Council's Constitution is a public document and is accessible on the Authority's Website.

Yours sincerely

FOI Office
West Lindsey District Council