

Individual Executive Decision Notice

Report title	Local Returning Officer Indemnity	
Decision designation	GREEN	
Cabinet member with lead responsibility	Councillor Andrew Johnson Resources	
Wards affected	All	
Accountable director	Kevin O'Keefe, Governance	
Originating service	Electoral Services	
Accountable employee(s)	Martyn Sargeant Tel Email	Head of Democratic Services 01902 555045 Martyn.sargeant@wolverhampton.gov.uk
Report to be/has been considered by		

Summary

A decision is required on whether to take out an additional insurance policy to cover the excess on the indemnity policy for the West Midlands Combined Authority mayoral election.

Recommendation(s) for action or decision:

That the Cabinet Member for Resources, in consultation with the Director of Governance,

1. Agrees that City of Wolverhampton Council will not take out an additional insurance policy for the West Midlands Combined Authority mayoral election.
2. Agrees that in the unlikely event of an election re-run, the Council will underwrite the cost up to the first £250,000, with the balance being recovered through the Council's insurance arrangements.

Signature

Signature

Date:

Date:

1.0 Background

- 1.1 When a national election occurs, the cost is underwritten by the commissioning body (e.g. for PCC elections, it is the Home Office; for parliamentary elections, it is the Cabinet Office). Those bodies hold indemnity arrangements in case an election has to be re-run (e.g. following an election petition). The West Midlands Combined Authority mayoral election is a new type of election, and, whilst the City of Wolverhampton Council's insurer has confirmed that the Council's policy would be operative in respect of the mayoral election, it would only take effect if the cost was to exceed £250,000.
- 1.2 In common with the Council's other insurance arrangements, the first £250,000 of the policy in respect of elections is self-insured, meaning the excess would have to be paid before the insurer made any contribution. (The cost of a stand-alone election in Wolverhampton is estimated to be approximately £325,000.)
- 1.3 Because Returning Officers undertake management of elections in their personal capacity, rather than as Council employees, there is a risk that the Council's Managing Director (in his role as Local Returning Officer) could be personally liable for the excess of £250,000.
- 1.4 The election insurance is operative provided that the Returning Officer has not acted fraudulently (i.e. it covers negligence, omission, mistakes, etc. but not criminal acts).

2.0 Proposal

- 2.1 There are two options to consider: taking out an additional insurance or the Council confirming it will underwrite the excess on the existing indemnity policy.
- 2.2 Taking out an additional insurance would ensure City of Wolverhampton Council and the Returning Officer is covered in the event of having to re-run the election. The price to take out additional insurance is £2,000 plus insurance premium tax and would remove the excess except for the first £10,000.
- 2.3 Legal and financial advice has been sought to clarify the Council's position on covering the excess on the existing indemnity policy. Given the low risk, the Council could underwrite the cost, as it does with other risks, up to the first £250,000. Robust arrangements are in place to ensure professional conduct, so the risk of having to re-run the election due to fault on the part of the Returning Officer is low.
- 2.4 Across the West Midlands Combined Authority, there is a mixed approach to taking out additional insurance. Birmingham City Council has opted to amend its insurance to ensure it covers Birmingham in the event of having to re-run the election. A number of other authorities have opted not to take out additional insurance given the low risk.

3.0 Financial implications

3.1 Under existing insurance arrangements the Council would have to meet costs up to £250,000 in the event of a re-run election. This would reduce to £10,000 if additional cover was taken out at a cost of just over £2,000. Given the robust arrangements in place to ensure professional conduct the risk of having to re-run the election is deemed to be very low. The recommendation is therefore, that additional insurance is not taken out and the Council underwrites the cost of a re-run election up to the £250,000 policy excess level. [GE/06042017/O]

4.0 Legal implications

4.1 The Director of Governance has confirmed that the Council can underwrite the excess. [RB/07042017/M]

5.0 Equalities implications

5.1 There are no equalities implications arising from this report.

6.0 Environmental implications

6.1 There are no environmental implications arising from this report.

7.0 Human resources implications

7.1 This are no human resources implications arising from this report.

8.0 Corporate landlord implications

8.1 There are no corporate landlord implications arising from this report.

9.0 Schedule of background papers

9.1 There are no background papers.