

The Local Authorities (Indemnities for Members and Officers)  
Order 2004

**Kennet District Council: Indemnity Policy**

1. In this policy, the terms below have the following meanings:

- “Member” refers to members, former members, co-opted members and former co-opted members of Kennet District Council (The Council)
- “Officer” refers to employees and former employees of the Council
- “Criminal proceedings” includes any interview or investigation by the police and any proceedings before a criminal court in the United Kingdom
- “Part 3 proceedings” means any investigation or hearing in respect of an alleged failure to comply with the Council’s Code of Conduct for Members under Part 3 of the Local Government Act 2000

2. The Council will (subject to the exceptions set out in paragraph 3, and all the provisos and conditions of this policy), indemnify each of its members and officers against any loss or damage suffered by the member or officer arising from his/her action or failure to act in his/her capacity as a member or officer of the Council during the course of their Council duties **PROVIDED**

- (a) the action or failure to act has been authorised by the Council and/or,
- (b) the member or officer believed an action, or failure to act, was within the powers of the Council , and
- (c) it was reasonable for him/her to hold that belief at the time he/she acted or failed to act, or
- (d) where the action or failure comprised the issuing or authorisation of any document containing any statement as to the powers of the Council, or that certain steps had been taken or requirements fulfilled, believed the contents of the statement to be true and it was reasonable for him/her to hold that belief at the time he/she acted or failed to act ,or

- (e) he/she reasonably believed that an act or failure to act which is subsequently found to be beyond the powers of the member or officer, was within his/her powers at the time at which he/she acted or failed to act.
3. This indemnity **WILL NOT** extend to
- 3.1 loss or damage directly or indirectly caused by or arising from:
    - (a) any action or failure to act which constitutes a criminal offence, or
    - (b) any action or failure to act which is the result of fraud, or other deliberate wrongdoing or recklessness on the part of a member or officer, or
    - (c) a claim of defamation against a member or officer, or
    - (d) if a member or officer, without the written consent of the Council, admits liability, or negotiates or attempts to negotiate a settlement of any claim made against him/her or the Council
    - (e) failure by the member to comply with the Council's Code of Conduct for Members
  - 3.2 Part 3 proceedings where the allegation has been referred to the Monitoring Officer for local investigation and/or determination by the Standards Committee
4. The Council will also indemnify a member's or officer's costs in relation to the following, **SUBJECT TO** the conditions in this paragraph:
- (a) the defence of criminal proceedings against him/her, or
  - (b) any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence, or
  - (c) the defence of an allegation of defamation against him/her
  - (d) the defence of serious offences under the Council's Code of Conduct for Members
- IF**
- (i) a member or officer is convicted of a criminal offence and the conviction is not overturned on appeal, or

- (ii) a member is found to have breached the Council's Code of Conduct for Members and the finding is not overturned on appeal, or
- (iii) following an allegation of a breach of the Council's Code of Conduct for Members, the member in question admits to the breach

**IN THAT EVENT** the member or officer **MUST** reimburse the Council (or the Council's insurer as the case may be) any sums expended by the Council or the insurer in relation to the defence proceedings in which case such sums shall become recoverable by the Council or insurer as a civil debt

5. The Chief Executive, the Monitoring Officer and the s. 151 Officer may impose any condition they deem appropriate.
6. The Council undertakes not to sue (or join in action as co-defendant) a member or officer in respect of any negligent act or failure to act by the member or officer in his/her capacity as a member or officer of the Council, **SUBJECT** to the following **EXCEPTIONS**:
  - (a) Any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the member or officer; or
  - (b) Any act or failure to act by the member or officer otherwise than in his/her capacity as a member or officer of the Council.
7. The indemnities and undertaking in this policy will not apply if a member or officer, without the express permission of the Council or Chief Executive, Monitoring Officer or s. 151 Officer, admits liability or negotiates or attempts to negotiate a settlement of any claim.
8. The indemnities and undertaking are without prejudice to the rights of the Council to take disciplinary action against an officer in respect of any act of failure to act.
9. The indemnities and undertaking shall apply retrospectively to any act or failure to act which may have occurred before this date and shall continue to apply after the member or officer has ceased to be a member or officer of the Council as well as during his/her membership of or employment by the Council.