

## **Scheme of Indemnity for Members and Officers**

1. This Scheme of Indemnity ('the Scheme') shall take effect from the date on which it is approved by Council.

In this Scheme: -

'Employees' includes any person employed or formerly employed by Darlington Borough Council ('the Council') and any other person appointed by it to be an Officer of the Council; and

'Members' includes former or current elected and co-opted Members of the Council.

2. The Council hereby indemnifies its employees and Members against the costs, claims and expenses set out in paragraph 5 below of this Scheme, subject to the exceptions set out in paragraph 6 below of this Scheme, and on the terms set out in paragraph 7 below of this Scheme.
3. Notwithstanding any limitation on the powers of the Council, the indemnity is effective to the extent that the employee or Member in question :-
  - (a) Believed that the action, or failure to act, in question was within the powers of the Council; or
  - (b) Where that action or failure to act comprises the issuing or authorisation of any document containing any statement as to the powers of the Council, or any statement that certain steps have been taken or requirements fulfilled, believed that the contents of that statement were true, and it was reasonable for that employee or Member to hold that belief at the time when he/she acted or failed to act.
4. The indemnity is also effective in relation to any act or omission which is subsequently found to be beyond the powers of the employee or Member in question but only to the extent that he/she reasonably believed that the act or omission in question was within his/her powers at the time at which he/she acted.

5. The costs, claims and expenses are those which arise from, or in connection with, any action of, or failure to act by, the employee or Member in question, which:-
  - (a) Is, or has been, authorised by the Council; or
  - (b) Forms part of, or arises from, any powers conferred, or duties placed, upon that employee or Member, as a consequence of any function being exercised by that employee or Member (whether or not when exercising that function he/she does so in his/her capacity as an employee or Member of the Council):-
    - (i) At the request of, or with the approval of the Council; or
    - (ii) For the purposes of the Council.
6. The exceptions are that: -
  - (a) No indemnity is given in relation to any action by, or failure to act by, any employee or Member which: –
    - (i) Constitutes a criminal offence; or
    - (ii) Is the result of fraud, or other deliberate wrongdoing or recklessness on the part of that employee or Member.
  - (b) Notwithstanding paragraph 6(a(i)) above, the indemnity is provided in relation to:-
    - (i) (Subject to paragraph 7 below) the defence of any criminal proceedings brought against the employee or Member; and
    - (ii) Any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.
  - (c) No indemnity is provided in relation to the making by the employee or Member indemnified of any claim in relation to an alleged defamation of that Member or employee but the indemnity is provided in relation to the defence by that Member or employee of any allegation of defamation made against him/her.
7. The terms of the indemnity are as follows : -
  - (a) Where the indemnity has effect in relation to the defence of any criminal proceedings if the employee or Member in question is convicted of a criminal offence and that conviction is not overturned following any appeal, the indemnity will only extend to cover actual loss and expense incurred and evidenced by the employee or Member to the satisfaction of the Chief Executive or his nominee;
  - (b) The indemnity will not cover any loss or expense in respect of which the employee or Member can obtain reimbursement from any other source, including any policy

of insurance whether taken out by the Council or the employee or Member by any other person.

8. This indemnity is without prejudice to the right of the Council to take disciplinary action against an employee in respect of any neglect, act, error or omission.