



**THIS DEED OF INDEMNITY** is dated [●] April 2005 and made between:

- (1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BRENT** (the "**Council**") of Town Hall, Forty Lane, Wembley, Middlesex HA9 9HD;
- (2) [ ] (the "**Officer**") of Town Hall, Forty Lane, Wembley, Middlesex HA9 9HD;

**BACKGROUND:**

- (A) The Officer is employed by the Council as Deputy Director of Corporate Services.
- (B) The Council is an administering authority for the purpose of the Local Government Pension Scheme Regulations 1997 SI No.1612 as amended (the "**1997 Regulations**").
- (C) In its capacity as an administering authority the Council is required to operate a procedure for the resolution of disputes in relation to the local government pension scheme. The Council has also established a procedure for the resolution of disputes regarding the exercise of its discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 SI No.1410 as amended and under earlier equivalent regulations (the "**Discretionary Compensation Regulations**"). The two dispute resolution procedures are together referred to in this Deed as the "**IDRP**".
- (D) With effect from the 1 June 2004, regulations 98 to 103 of the 1997 Regulations which relate to the IDRP in so far as it applies to the local government pension scheme have been amended by regulations 27 to 32 of the Local Government Pension Scheme (Amendment) Regulations 2004 SI No. 573 (the "**2004 Regulations**").
- (E) From 1 February 2000 until 31 May 2004, in the course of his employment with the Council, the Officer was required to act as the "appointed person" for the purpose of regulation 100 of the 1997 Regulations. As from 1 June 2004, the functions of the administering authority under regulation 102 of the 1997 Regulations (as amended by the 2004 Regulations) have been delegated to the Officer by the Council in its capacity as administering authority. As from 1 June 2004 the Officer has also been required to determine, on behalf of the Council, disputes relating to the Discretionary Compensation Regulations.
- (F) The Council has agreed to provide an indemnity to the Officer in the terms set out in this Deed in respect of any claims made or proceedings brought against him and all other expenses incurred by him in connection with his role in relation to the IDRP before, on and after the date of the Deed.
- (G) The Council has power to provide this indemnity pursuant to the Local Authorities (Indemnities for Members and Officers) Order 2004 SI No. 3082 (made by the Secretary of State in exercise of his powers under section 101 of the Local Government Act 2000) and under other statutory powers.

**THIS DEED WITNESSES that:**

**1. INDEMNITY**

1.1 The Council agrees, in relation to any act, neglect, error or omission committed by the Officer in the course of dealing with any dispute under the IDRPs, or otherwise in connection with the IDRPs (a "**Relevant Act**"):

- (a) to indemnify and to keep the Officer, his personal representatives, estates and effects fully and effectively indemnified and to hold them harmless in respect of and against all actions, proceedings, claims, demands, accounts, liabilities, damages, losses and all other expenses arising directly or indirectly from any Relevant Act, including the costs incurred by the Officer in defending or otherwise dealing with any such action, proceedings, claim or other matter brought or threatened against him and any costs awarded against him; and
- (b) that the Council will not itself make any claim against the Officer in connection with any Relevant Act.

Subject to the provisions of Clauses 2 and 3.

1.2 Clause 1.1 applies to any Relevant Act whether before, on or after the date of this Deed.

1.3 Clause 1.1 shall apply whether or not the Relevant Act exceeds the powers of:

- (a) the Council; or
- (b) the Officer;

provided that (in the case of paragraph (a) of this Clause) the Officer believed that the Relevant Act was within the powers of the Council, or (in the case of paragraph (b)) the Officer believed that the Relevant Act was within his powers and in either case, that it was reasonable for him to hold that belief at the time of the Relevant Act.

1.4 For the avoidance of doubt it is hereby agreed and declared that this indemnity shall continue in full force and effect notwithstanding:

- (a) that the Officer has ceased to act in relation to IDRPs;
- (b) that the Officer has ceased to hold the post of Deputy Director of Corporate Services of the Council;
- (c) that the Officer has ceased to be employed by the Council; or
- (d) the death of the Officer.

## 2. **EXCLUSIONS**

2.1 Clause 1.1 (a) shall not apply:

- (a) to any Relevant Act which constitutes a criminal offence, except as provided for in Clause 3;
- (b) to any Relevant Act which is the result of fraud or other deliberate wrongdoing or recklessness on the part of the Officer; or
- (c) to the making of any claim by the Officer in relation to an alleged defamation of the Officer (but for the avoidance of doubt, shall apply to the defence by the Officer of an allegation of defamation made against him).

2.2 Clause 1.1 (b) shall not apply in relation to a Relevant Act:

- (a) which constitutes a criminal offence of which the Officer is convicted (and that conviction is not overturned on appeal); or
- (b) which on reasonable grounds is considered to amount to deliberate serious wrongdoing by the Officer and which has caused loss to the Council.

## 3. **DEFENCE OF CRIMINAL PROCEEDINGS AND REIMBURSEMENT BY THE OFFICER IN THE EVENT OF CONVICTION**

3.1 Notwithstanding Clause 2.1 (a) the Council agrees to indemnify the Officer in relation to the costs of defending any criminal proceedings brought against him in relation to a Relevant Act and any civil liability arising as a consequence of any Relevant Act which also constitutes a criminal offence.

3.2 In the event that the Officer is convicted of a criminal offence, the Officer covenants to reimburse the Council such sums as have been expended by the Council pursuant to this indemnity in respect of the defence of those proceedings, unless that conviction is overturned on appeal.

3.3 The Council agrees that it will not seek reimbursement pursuant to Clause 3.2 until all available appeals have been finally determined, or the time to make all such appeals has passed, subject to clause 3.4.

3.4 If so requested by the Council the Officer shall obtain advice from Counsel on the prospects of success of any proposed appeal in advance of the appeal hearing. The costs of that advice shall be met by the Council in any event. In circumstances where Counsel advises the Officer that the appeal has no reasonable prospect of success but the Officer nonetheless proceeds with the appeal, the costs and expenses of conducting that appeal will only be recoverable from the Council after the event and provided that the appeal is successful.

#### 4. CONDUCT OF CLAIMS

4.1 In respect of any claim arising under this indemnity the Officer:

- (a) shall, as soon as reasonably practicable, give written notice to the Council of the action, proceedings, claim or other matter against which the Officer is claiming to be indemnified;
- (b) shall not, without prior written consent of the Council, admit liability or make any offer, promise, compromise or settlement with any third party in respect of the claim;
- (c) shall surrender to the Council or its insurers, on request by the Council, the conduct of any action, proceedings, claim or other matter (other than any criminal proceedings); and
- (d) shall (whether or not any request has been made under paragraph (c) of this Clause or paragraph (a) of Clause 4.2) cooperate in full with the Council and provide all such documents, information and assistance as the Council may reasonably require in connection with any matter or circumstance arising under or incidental to the indemnity.

4.2 In respect of any claim arising under this indemnity the Council:

- (a) shall, if so requested by the Officer, act on the Officer's behalf to such extent as he may reasonably require in respect of any matter or circumstance arising under or incidental to the indemnity;
- (b) shall, if the Officer has requested the Council so to act under paragraph (a) of this Clause, or if the Council has made a request under paragraph (c) of Clause 4.1, keep the Officer fully and properly informed of the conduct of any defence, settlement and/or counterclaim and shall agree with the Officer in so far as reasonably practicable the manner in which the matter is to be conducted; and
- (c) shall (whether or not any request has been made under paragraph (a) of this Clause or under paragraph (c) of Clause 4.1) cooperate in full with the Officer and provide all such documents, information and assistance as the Officer may reasonably require in connection with any matter or circumstance arising under or incidental to the indemnity.

#### 5. SEVERANCE

If any part of this Deed is found to be unenforceable the remaining parts will continue in full force and effect.

#### EXECUTION:

The parties have shown their acceptance of the terms of this Deed by executing it as a deed below.

THE COMMON SEAL of **THE MAYOR** )  
**AND BURGESSES OF THE LONDON** )  
**BOROUGH OF BRENT** was affixed to )  
this Deed in the presence of:

Borough Solicitor

SIGNED as a deed by [                    ] in the )  
presence of: )

Witness's signature:

Witness's name  
(in capitals):

Witness's address: