



Elections coverage



Overview

With the general election fast approaching, councils need to consider the liabilities that may arise from running electoral processes and ensure that they have appropriate covers in place.

Returning officers

The Representation of the People Act 1983 requires each local authority to appoint a returning officer – usually the chief executive or other senior official – for local council elections. For a general election, the act appoints the chairman of the council (usually the Mayor or similar) as the returning officer. However, this role is largely symbolic and the executive role in running the election tends to fall to the acting returning officer.

In both general and local elections, the person responsible for running the election has been appointed by the council to carry out the responsibilities set out by the act. Therefore, that person should be indemnified by the council. If there is any doubt as to whether the individual is acting ultra vires, the council could consider providing a specific indemnity under the Indemnity to Officers and Members Order 2004. Our article 'The Local Authorities (Indemnities for Members and Officers) Order 2004' provides more information on this topic.

Covers available

For both types of election, our employers' and public liability policies provide indemnity to the council and to the returning officer/acting returning officer for liabilities arising from the conduct of the election.

In addition, officials' indemnity insurance covers councils and returning officers/acting returning officers for any wrongful act in the performance of their official electoral duties. It covers defence costs and other financial losses, including the cost of re-running elections.

Ultra vires or intra vires?

There is some debate as to whether the use of council funds to pay for the personal liabilities of returning officers is ultra vires. However, there appears to be little doubt that such payments are legal for local council elections, since the authorities concerned are responsible for arranging such elections as part of their own responsibilities.

Where there is less certainty is in relation to general elections, where the returning officer and acting returning officer have personal liability for the conduct of the election.

To help remove the uncertainty and ensure these officials do not have to carry the normal policy deductible – which can be significant – we can offer a reduced deductible for employers' liability, public liability and officials' indemnity policies in respect of the personal liability of the returning officer, acting returning officer or deputy returning officer.

The additional premium for this facility is based on the authority's self-insured retention. It must be paid by the returning officer (to get over the ultra vires aspect), but they should be able to recover it as an expense under item 10 of Part C of The Parliamentary Elections Order 2001.

Further RMP Resources and Articles

For access to further RMP Resources you may find helpful in reducing your organisation's cost of risk, please access the [RMP Resources](#) or [RMP Articles](#) pages on our website. To join the debate follow us on our [LinkedIn](#) page. Additionally we have specific discussion groups for the [Education](#), [Emergency](#) and [Government](#) sectors.

Get in touch

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Elec-Cov-01-17