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cc: PS/Sue Essex  
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**MB/SE/0295/06: Plenary Debate 9<sup>th</sup> May 2006**

**Issue:** Plenary Commitments made on Tuesday 9<sup>th</sup> May 2006

### **Recommendation**

That you agree that it is not necessary to issue further guidance on this matter.

### **Background**

1. During the Plenary session on Tuesday 9<sup>th</sup> May 2006, during which approval was given for the Standing Orders (Wales) Regulations 2006, you made a commitment, in response to comments from Mike German, Leader of the Welsh Liberal Democrat Group. This was to consult with colleagues in England to see if the issue of "designated independent person" had been further refined, and if there was a need for further clarification of the issue.

### **Advice**

2. The original provision for local authorities to appoint an "independent person" was contained within the Local Government and Housing Act 1989. This allowed for the "independent adjudicator" to consider exemptions from political restrictions for posts within local government. More recently, the Standing Orders Regulations (England) 2001, introduced in England the "designated independent person" whom is appointed to make a report to the council on whether the evidence supports or otherwise any allegations of misconduct by a relevant officer. The Standing Orders (Wales) Regulations 2006 replicates these provisions.
3. There have only been a small number of designated independent persons appointed in Wales for the purposes of examining allegations of misconduct. Only once in the Vale of Glamorgan, did it result in disciplinary actions against the chief executive. In that case, the local authority and the officer under investigation were unable to agree on an

independent person and so the Secretary of State for Wales, using his power under the regulations, made the appointment, who was a Q.C.

4. The Regulations provide for the designated independent person to be agreed between the relevant authority and the relevant officer. Only if any such agreement fails to be reached does the duty to nominate such a person fall on the National Assembly for Wales. The Department for Communities and Local Government, which is the sponsoring department for the English regulations, maintains a list of those that can be nominated as independent persons. In England however the number of councils and hence the number of officers to which these regulations apply, hugely exceeds the numbers in Wales. There is no necessity for the National Assembly for Wales to maintain such a list as our involvement in the process is likely to be such a rare occurrence and there will be no difficulty in selecting an independent person if required.

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