

LEGAL REPRESENTATION FOR ELECTED MEMBERS AND EMPLOYEES POLICY

COUNCIL POLICY NO: 054

Responsible Directorate	Office of the CEO
Responsible Section	Legal and Risk
Responsible Officer	Chief Executive Officer

OBJECTIVE:

To provide for legal representation and cost indemnification to assist Elected Members or employees in specified situations.

SCOPE:

This policy applies to all Elected Members and all Employees of the Town of Cambridge.

POLICY STATEMENT:

1. Introduction

- 1.1 This policy is designed to protect the interests of Elected members and employees (including past members and former employees) where they become involved in civil legal proceedings because of their official functions in their capacity as an Elected Member or employee. In most situations the Town may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings.
- 1.2 In each case it will be necessary to determine whether assistance with legal costs and other liabilities is justified for the good government of the district. This policy applies in that respect.

2. General Principles

- 2.1 The Town may provide financial assistance to members and employees in connection with the performance of their duties provided that the member or employee has acted reasonably and in good faith and has not acted dishonestly, against the interests of the Town or otherwise in bad faith.
- 2.2 The Town may provide such assistance in the following types of legal proceedings:-
 - (a) proceedings brought by members and employees to enable them to carry out their local government functions (eg where a member or employee seeks a restraining order against a person using threatening behaviour);
 - (b) proceedings brought against members or employees. This could be in relation to decision of Council or an employee which aggrieves another person (eg refusing a development application) or where the conduct of a member or employee in carrying out his or her functions is considered detrimental to the person (eg defending defamation actions); and

- (c) statutory or other inquiries where representation of members or employees is justified.
- 2.3 The Town may support defamation action seeking the payment of damages for individual members or employees in regard to comments or criticisms levelled at their conduct in their respective roles, provided the intent of the conduct by that member or employee was for the good government of the district and the person concerned was acting in their official capacity with the Town. Members or employees are not precluded, however, from taking their own private action. Further, the Town may seek its own advice on any aspect relating to such comments and criticisms of relevance to it.
- 2.4 The legal services the subject of assistance under this policy will usually be provided by the Town's solicitors. Where this is not appropriate for practical reasons or because of a conflict of interest then the service may be provided by other solicitors at the Chief Executive Officer's discretion.

3. Applications for Financial Assistance

- 3.1 Subject to item (3.5), decisions as to financial assistance under this policy are to be made by the Council.
- 3.2 A member or employee requesting financial support for legal services under this policy is to make an application in writing, where possible in advance, to the Council providing full details of the circumstances of the matter and the legal services required.
- 3.3 An application to the Council is to be accompanied by an assessment of the request and with a recommendation which has been prepared by, or on behalf of, the CEO.
- 3.4 A member or employee requesting financial support for legal services, or any other person who might have financial interest in the matter, would take care to ensure compliance with financial interest provisions of the *Local Government Act 1995*.
- 3.5 Where there is a need for the provision of urgent legal services before an application can be considered by Council, the CEO may give an authorisation to the value of \$5000 provided that the power to make such an authorisation has been delegated to the CEO in writing under section 5.42 of the *Local Government Act 1995*.

4. Repayment of Assistance

- 4.1 Any amount recovered by a member or employee in proceedings, whether for costs or damages, will be off set against any monies paid or payable by the Town.
- 4.2 Assistance will be withdrawn where the Council determines, upon legal advice, that a person has acted unreasonably, illegally, dishonestly, against the interests of the Town or otherwise in bad faith; or where information from the person is shown to have been false or misleading.
- 4.3 Where assistance is so withdrawn, the person who obtained financial support is to repay any monies already provided. The Town may take action to recover any such monies in a court of competent jurisdiction.

DEFINITIONS:

Definitions are taken as those detailed in the *Local Government Act 1995* and associated legislation.

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Office Use Only:				
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Related Documents/Legislation				
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