

### Purpose

The purpose of this Policy is to establish guidelines concerning the provision of legal representation and cost indemnification to assist Council Members and employees facing or taking court action.

This Policy is designed to protect the interests of Council Members and employees (including past members and former employees) where they become involved in civil legal proceedings because of their official functions.

### Scope

This Policy applies to Council Members and employees of the Shire of Boddington (Shire).

### Definitions

| Term                 | Meaning  |
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| Policy               | This Shire of Boddington policy titled "Legal Representation Costs Indemnification".   |
| Council Members      | Means a current or former person elected as a Councillor.  |
| Legal Proceedings    | May be civil, criminal or investigative.   |
| Legal Representation | Is the provision of legal services, to or on behalf of a relevant person by an approved lawyer that are in respect of: <ol style="list-style-type: none"> <li>A matter or matters arising from the performance of the functions of the relevant person; and</li> <li>Legal proceeds involving the relevant person that have been, or may be commenced.</li> </ol>  |
| Approved Lawyer      | Is to be: <ol style="list-style-type: none"> <li>A person who is admitted to the legal profession under the Legal Profession Act 2008.</li> <li>From a law firm on the WALGA's panel of legal service providers, if relevant, unless Council considers that this is not appropriate – for example where there is or may be a conflict of interest or insufficient expertise; and</li> <li>Approved by resolution of Council or in writing by the Chief Executive Officer under delegated authority.</li> </ol> |

### Policy Statement

The Shire may provide financial assistance to Council Members and employees with the performance of their duties, provided that the individual has acted reasonable and has not acted illegally, dishonestly, against the interests of the Shire, or otherwise in bad faith.

The Shire may provide such assistance in the following types of legal proceedings:

- Proceedings brought by Council Members and employees to enable them to carry out their Shire functions (e.g. where a Council Member or employee seeks a restraining order against a person using threatening behaviour);

- Proceedings brought against Council Members or employees – this could be in relation to a decision of Council or an employee which aggrieves another person (e.g. refusing a development application) or where the conduct of a Council Member or employee, in carrying out their functions, is considered detrimental to the person (e.g. defending defamation actions); and
- Statutory or other inquiries where representation of Council Members or employees is justified.

In each case it is to be determined whether assistance with legal costs and other liabilities is justified for the good government of the district.

The Shire is not to support any defamation actions seeking the payment of damages for individual Council Members or employees in regard to comments or criticisms levelled at their conduct in their respective roles.

Decisions as to financial assistance under this Policy are to be made by Council. Where there is a need for the provision of urgent legal services before an application can be considered by Council, the Chief Executive Officer may give an authorisation to the value of \$5,000, provided that the power to make such an authorisation has been delegated to the Chief Executive Officer in writing under section 5.42 of the Local Government Act 1995. Where it is the Chief Executive Officer who is seeking urgent financial support for legal services, Council is to deal with the application.

A Council Member or employee requesting financial support for legal services under this Policy is to make an application in writing, in advance where possible, to the CEO, or in the case of the CEO requesting financial support, to Council, providing full details of the circumstances and the legal services required.

An individual requesting financial support for legal services, or any other individual who might have a financial interest in the matter, it so take care to ensure compliance with the financial interest provisions of the Local Government Act 1995.

Any amount recovered by an individual in proceedings, whether for costs or damages, is to be offset against any moneys paid or payable by the Shire.

Assistance is to be withdrawn where the CEO or Council determines, upon legal advice, that an individual has acted unreasonably, illegally, dishonestly, against the interest of the Shire, or otherwise in bad faith, or where information from the individual is shown to have been false or misleading. Where assistance is withdrawn, any moneys already paid are to be repaid.

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| <b>Responsible Officer</b>   | Chief Executive Officer  |
| <b>History</b>               | Adopted 19 April 2005 (Resolution 59/05)<br>Amended 23 March 2023 (Resolution 25/23) |
| <b>Delegation</b>            |  |
| <b>Relevant Legislation</b>  | Section 9.56, Local Government Act 1995  |
| <b>Related Documentation</b> |  |