

## 1.9 LEGAL REPRESENTATION AND COSTS INDEMNIFICATION

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<b>Policy Responsibility</b>	Council and Chief Executive Officer		

### Document History

Version	Date Amended	Details Comments e.g. Resolution Number

### OBJECTIVE

To provide a framework for determining whether financial assistance may be provided to officers or members of Council in defending legal actions.

This policy is designed to protect the interests of Council members and employees (including former members and former employees) where they become involved in civil legal proceedings because of their official functions. In most situations, the local government may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings.

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.

### POLICY STATEMENT

#### 1. General principles

The Coomalie Community Government Council may provide financial assistance to members, former members, employees and former employees in connection with the performance of their duties provided that the member or employee has acted reasonably and has not acted illegally, dishonestly, against the interests of the local government or otherwise in bad faith.

The Coomalie Community Government Council may provide such assistance in the following types of legal proceedings:

- proceedings brought by members and employees to enable them to carry out their local government functions (e.g. where a member or employee seeks a restraining order against a person using threatening behaviour);
- proceedings brought against members or employees 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 member or employee in carrying out his or her functions is considered detrimental to the person (e.g. defending defamation actions); and
- statutory or other enquiries where representation of members or employees is justified.

The Coomalie Community Government Council will not support any defamation actions seeking the payment of damages for individual members or employees in regard to

comments or criticisms levelled at their conduct in their respective roles. Members or employees are not precluded, however, from taking their own private action. Further, the local government may seek its own advice on any aspect relating to such comments and criticisms of relevance to it.

The legal services the subject of assistance under this policy will usually be provided by the local government'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 approved by the local government.

## **2. Applications for financial assistance**

- (a) Decisions as to financial assistance under this policy are to be made by the Council.
- (b) 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.
- (c) 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 Chief Executive Officer.
- (d) A member or employee requesting financial support for legal services, or any other person who might have a financial interest in the matter, should take care to ensure compliance with the financial interest provisions of the Local Government Act.
- (e) Where it is the Chief Executive Officer who is seeking urgent financial support for legal services, the Council shall deal with the application.

## **3. Assistance to be retrospective**

Financial assistance will be paid retrospectively at the conclusion of the legal action for which financial assistance was sought except in cases of serious financial hardship as determined by Council.

## **4. Repayment of assistance**

Any amount recovered by a member or employee in proceedings, whether for costs or damages, will be offset against any moneys paid or payable by the local government.

Assistance will be withdrawn where an adverse finding has been determined by a civil court or Inquiry. Assistance will also be withdrawn where information from the person is shown to have been false or misleading.

Where assistance is withdrawn, the person who obtained financial support is to repay any moneys already provided. The Coomalie Community Government Council may take action to recover any such moneys in a court of competent jurisdiction.