

## Logan City Council

### Insurance and Indemnity for Councillors Procedure

Logan City Council  
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## **1 Procedure Objective**

This Procedure sets out the way in which Council will enter into a Councillor Insurance Policy, pay the insurance policy excess for a Councillor Insurance Policy and indemnify or reimburse a Councillor for costs incurred through injury, investigation, hearings or legal proceedings

## **2 Payment of Councillor Insurance Policy Excess**

The Council will pay the Councillor Insurance Policy excess for a claim made against a Councillor to the extent to which it is payable as a result of the performance by the Councillor of a Councillor Responsibility if the relevant Claims Manager confirms in writing its determination that the matter should be managed by the Claims Manager in order to mitigate the risk involved

## **3 Indemnification for loss or damage**

The Council will indemnify a Councillor against loss or damage suffered by the Councillor to the extent to which it is as a result of the performance by the Councillor of a Councillor Responsibility.

## **4 Legal assistance**

The Council will indemnify or reimburse the reasonable legal expenses of a Councillor to the extent to which they are incurred as a result of:

- the Councillor defending a proceeding which has been commenced or is reasonably expected to be commenced against the Councillor as a result of the performance by the Councillor of a Councillor Responsibility; or
- the Councillor responding to or assisting an investigation by an investigative body as a party, witness or in another capacity as a result of performance by the Councillor of a Councillor Responsibility.

## **5 Claims against a Councillor**

The Council may by resolution cease indemnifying or reimbursing a Councillor under paragraphs 3 or 4 and require a Councillor to repay to the Council an amount that has been indemnified or reimbursed in the following circumstances:

- the relevant Court, or investigative body makes a finding adverse to the Councillor or the Councillor makes relevant admissions;
- the Councillor has no further rights of appeal or elects not to further appeal.

If the Council makes a resolution requiring a Councillor to repay an amount that has been indemnified or reimbursed for loss or damage or for legal assistance, the Councillor is to repay the amount within 90 days or such longer period provided by the resolution.

The Council will not subject a Councillor to a claim for the following:

- a contribution where money is paid in settlement of a claim if the claim has arisen as a result of the performance by the Councillor of a Councillor Responsibility;
- reimbursement of all or part of any settlement or of any award for damages or costs paid if the claim has arisen as a result of the performance by the Councillor of a Councillor Responsibility.

## **6 Way in which a Councillor is to make a request under this Policy and Procedure**

A Councillor is to, as soon as reasonably practicable, notify the Director of Organisational Services in writing of the following:

- a matter to which this policy may apply;
- the facts and circumstances in respect of that matter.

A notice given to the Director of Organisational Services about a matter to which this policy may apply is also to contain a written acknowledgement by the Councillor that the Councillor:

- has read and understood this policy;
- understands that if an adverse finding is made against the Councillor, the Councillor may be required to repay an amount indemnified or reimbursed under this policy;
- undertakes to repay an amount indemnified or reimbursed under this policy if required by a resolution of Council made in accordance with this Procedure.

A Councillor is not to admit liability, negotiate or attempt to negotiate a settlement of a matter to which this policy may apply without the approval of the Director of Organisational Services which in respect of a claim to which a contract of insurance applies is to have regard to the advice of:

- the relevant Claims Manager;
- if the relevant Claims Manager is the Council, the advice of the Council's legal representative.

## **7 Way in which a request under this Policy and Procedure is to be managed**

The Director of Organisational Services is to:

- determine the relevant Claims Manager;
- notify the relevant Claims Manager of any matter to which this policy may apply.

The relevant Claims Manager is to:

- ensure that the relevant processes of the Claims Manager, such as information-gathering, monitoring and reporting of circumstances, and obtaining consent prior to incurring costs, are ascertained and followed;
- determine in writing or by conduct whether a matter should be managed by the Claims Manager in order to mitigate the risk involved;
- determine any other matter stated in this policy.

A Councillor is to:

- if the relevant Claims Manager is not the Council, allow the Claims Manager to take over and instruct in the name of the Councillor the defence of any proceeding brought against the Councillor and to appoint a particular legal representative to act for the Councillor;
- if the relevant Claims Manager is the Council, consult with and keep regularly advised the Director of Organisational Services and the Council's legal representative where considered necessary by the Director of Organisational Services, in relation to the defence of a proceeding including the appointment of a particular legal representative to act for the Councillor.

A Councillor's entitlement to reimbursement under this policy, which may occur from time to time upon the presentation of a receipt or invoice, is subject to the following:

- the relevant Claims Manager confirming in writing its determination that the matter should be managed by the Claims Manager in order to mitigate the risk involved;
- the amount of reimbursement is to only extend to cover actual loss and expenses incurred and evidenced by the Councillor to the satisfaction of the Director of Organisational Services and may include an amount paid in settlement of a legal proceeding for a claim;
- the amount of reimbursement is to be reduced by the amount of any moneys which may be or is recouped by the Councillor;
- the amount of reimbursement is to be limited to the extent that only fees charged at a rate equivalent to the hourly rate then being charged by the Council's solicitors will be paid and any portion of expenses representing any hourly charge higher than the hourly charge of the Council's solicitors will not be reimbursed;
- there is to be no reimbursement in any circumstance for the costs of any advice or representation for any claim or threatened claim in defamation to be brought by a Councillor or if the Councillor is a plaintiff in any action;
- if a Councillor does not comply with the procedure in paragraphs 6 and 7, the Council may reduce the reimbursement or indemnity it provides to the Councillor to the extent the noncompliance causes loss or prejudice to the Council.

## **8 Definitions**

Definitions for terms used within the Procedure can be found in the Insurance and Indemnity for Councillors Policy (DM: 13347879).