

SHIRE POLICY 4.2

Legal Representation and Cost Indemnification

Responsible Department:	Office of the CEO
Responsible Business Unit:	Governance
Date of Review:	15 April 2026
Council Resolution:	120426

1. OBJECTIVE

The objective of this Policy is to establish a clear and consistent framework for the provision of legal representation and financial assistance to Elected Members and employees who become involved in civil legal proceedings as a result of performing their official functions.

This Policy aims to ensure that individuals acting in good faith in the course of their duties are appropriately supported where legal representation or assistance is required in the interests of the good governance of the Shire.

2. SCOPE

This Policy applies to:

- Elected Members of the Shire of Chittering
- The Chief Executive Officer (CEO)
- Employees of the Shire of Chittering
- Former Elected Members and former employees where proceedings arise from actions undertaken in their official capacity.

This Policy applies where an individual becomes involved in civil legal proceedings, statutory inquiries, or related matters arising from the performance of their official duties.

This Policy does not apply to matters where an individual has acted:

- Dishonestly
- In bad faith
- Against the interests of the Shire.

3. DEFINITIONS

Elected member means a person elected to Council under the *Local Government Act 1995* (the Act).

Employee means a person employed by the Shire of Chittering, including the CEO.

Financial assistance means payment or reimbursement of reasonable legal costs or liabilities incurred in connection with legal proceedings covered by this Policy.

Legal proceeding means civil proceedings, inquiries, or other legal matters arising from the performance of official duties.

Legal Representation and Cost Indemnification

Official Functions means duties and responsibilities undertaken as part of a person's role as an Elected member or employee of the Shire.

4. POLICY STATEMENT

The Shire may provide financial assistance to Elected Members and employees in relation to legal proceedings arising from the performance of their official duties where the individual has acted reasonably, in good faith, and in the interests of the Shire.

Financial assistance may be provided in the following circumstances:

1. Proceedings initiated by an Elected Member or employee – Where legal action is taken to enable the individual to carry out their local government functions (for example, seeking protection from threatening behaviour).
2. Proceedings brought against Elected Members or employees – Where legal action is taken against the individual in connection with decisions or actions undertaken in the course of performing their official functions.
3. Statutory or other formal inquiries – Where representation of an Elected Member or employee is considered appropriate in the circumstances.

The Shire will not provide financial assistance for defamation actions seeking damages on behalf of individual Elected Members or employees in relation to comments or criticisms about their conduct in their roles. Individuals may pursue such actions privately if they choose.

Legal services provided under this Policy will generally be delivered through the Shire's appointed solicitors. Where this is not appropriate due to practical considerations or conflicts of interest, alternative legal representation may be approved at the discretion of the CEO.

4.1. Applications for Financial Assistance

Requests for financial assistance must be made in writing to the CEO and include full details of the matter and the legal services required.

Council is responsible for determining whether financial assistance will be provided under this Policy.

The CEO will provide Council with an assessment of the requests and a recommendation for consideration.

Where urgent legal services are required before Council can consider an application, the CEO may authorise legal assistance up to a value of \$5,000.

Where the CEO is seeking financial assistance under this Policy, the request must be determined by Council.

Any Elected Member or employee requesting assistance must ensure compliance with the financial interest provisions of the *Act* where possible.

Legal Representation and Cost Indemnification

Individuals receiving financial assistance must enter into an agreement with the Shire confirming that the assistance is provided subject to the terms and conditions of this Policy.

4.2. Repayment of Assistance

Where an Elected Member or employee receives any monetary award or recovery in legal proceedings (including costs or damages), the amount recovered will be offset against any funds provided by the Shire.

Financial assistance may be withdrawn if Council determines, based on legal advice, that the individual has acted dishonestly.

If assistance is withdrawn, the individual must repay any funds already provided. The Shire may take legal action to recover those funds if required.

5. ROLES AND RESPONSIBILITIES

Council's role is to determine whether legal assistance is granted under this Policy.

The CEOs role is to receive applications, provide recommendations to Council, and may approve urgent legal assistance up to \$5,000 where necessary.

Elected Members and Employees are responsible for submitting requests for assistance where required and comply with the terms of the Policy.

6. COMPLIANCE

Legislation	<i>Local Government Act 1995</i> <i>Local Government (Administration) Regulations 1996</i>
Industry	WALGA Governance Guidelines LGIS Risk Management Guidance
Organisational Documents	Code of Conduct – Elected Members Code of Conduct – Employees Policy 1.9 – Risk Management
Strategic Alignment	

7. ADMINISTRATION

Review Cycle	Every 3 years	Next Review Due	October 2027
Policy Owner	Governance		
Version	Decision Ref	Date	Change
1.0		17/02/2010	Initial adoption
2.0	120426	15/04/2026	Amendment