



Councillor's and Officer's Indemnity Policy

Local Government Act 2009

1. POLICY STATEMENT

Townsville City Council will indemnify each councillor and council officer against civil liability and legal expenses arising from any claim concerning the performance of their role, provided that the liability or expense has not been caused or contributed to by the councillor or officer engaging in conduct that is:

- proven to be dishonest, fraudulent, criminal or malicious; or
- misconduct as defined in this policy

2. PRINCIPLES

It is in the public interest that councillors and council officers can perform their responsibilities in a proper and lawful way without the threat of personal liability for legal and other expenses. It follows therefore that civil liability or legal expense arising from any claim concerning the performance of councillors and council officers in their respective roles should be indemnified by the council.

If civil liability or legal expense arises as a consequence of any conduct by a councillor or council officer that is proven to be dishonest, fraudulent, criminal or malicious, or amounts to misconduct as defined in this policy, then it is not appropriate for the council to provide an indemnity.

3. SCOPE

This policy applies to all councillors and officers.

4. RESPONSIBILITY

The Chief Executive Officer is responsible for ensuring this policy is understood and adhered to by all councillors and officers.

5. DEFINITIONS

Council Officer – includes any person who is an employee of the council, but for the purposes of this policy does not include contractors, volunteers and all others who perform work on behalf of council, but who are not employees of the council.

Misconduct means –

- In respect of councillors and council officers, corrupt conduct as defined in the *Crime and Corruption Act 2001*; and
- see section 150L of the *Local Government Act 2009*, and
- in respect of council officers also includes conduct, or a conspiracy or attempt to engage in conduct, of or by an officer —

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- (a) that adversely affects, or could adversely affect, (either directly or indirectly) the honest and impartial performance of the officer's responsibilities or exercise of the officer's powers; or
- (b) that is or involves—
 - (i) the performance of the officer's responsibilities, or the exercise of the officer's powers, in a way that is not honest or is not impartial; or
 - (ii) a breach of the trust placed in the officer; or
 - (iii) a misuse of information or material acquired in or in connection with the performance of the officer's responsibilities, whether the misuse is for the benefit of the officer or someone else.

6. POLICY

To the extent permitted by the law, the council indemnifies each councillor and council officer against civil liability and legal expenses arising from any claim concerning the performance of their role, provided that the liability or expense has not been caused or contributed to by the councillor or officer engaging in conduct that is:

- proven to be dishonest, fraudulent, criminal or malicious; or
- misconduct, as defined in this policy.

To limit its liability exposure under clause 6.1, the council will at its cost maintain insurance coverage to:

- reimburse to the council its expenditure (less any insurance deductible) made under section 6.1; and
- to directly indemnify councillors and officers in circumstances where the council itself is unable to provide that indemnification.

(Note: The effect of this insurance is that the council will not be liable to pay any more than the amount of the insurance deductible for each claim. At the time of drafting of this policy the deductible is \$7,500.00).

The council will pay the insurance deductible in respect of each claim under the policy when:

- the insurer has provided indemnification to a councillor or council officer in respect of a claim; and
- the claim has been concluded without a finding of misconduct, corrupt conduct or of dishonest, fraudulent, criminal or malicious conduct, by the councillor or council officer.

7. LEGAL PARAMETERS

Local Government Act 2009

Local Government Regulations 2012

8. ASSOCIATED DOCUMENTS

Nil

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