

Reporting Legal Matters Policy

Date policy was adopted:	24 April 2019	CEO Signature and date 
Resolution number:	141/19	
Next Policy review date:	April 2021	
Reference number:	C1960199	
Strategic Pillar	Capability/Council	
Responsible Branch	Legal & Risk	24 April 2019

Reporting Legal Matters Policy

1. OUTCOMES:

- 1.1 To meet the legislative requirements of Clause 413A, Local Government (General) Regulation 2005 and ensure that the Council is informed on legal matters.

2. POLICY:

- 2.1 Senior staff are to ensure that there is effective and timely escalation of communicating legal matters to the General Manager, Mayor and Councillors by ensuring:
 - (a) that Service Managers escalate acknowledgement of receipt of a fine or penalty to the relevant Portfolio General Manager in a timely manner,
 - (b) that Service Managers report to their Portfolio General Manager any matter that has a high potential to evolve into legal action against Council in a timely manner, and
 - (c) that the information received is provided to Councillors by at least the next available Council meeting.

3. SCOPE OF THE POLICY:

- 3.1 This policy covers any matter which may result in Council becoming involved in legal action and also potential major insurance claims.

4. DEFINITIONS:

- 4.1 Nil

5. LEGISLATIVE OBLIGATIONS AND/OR RELEVANT STANDARDS:

- 5.1 Clause 413A Local Government (General) Regulation 2005.

6. CONTENT:

- 6.1 In accordance with clause 413A of the Local Government (General) Regulation 2005, if a court or tribunal orders a council to pay any fine or other penalty, or to pay costs in relation to any legal proceedings, it is the duty of the General Manager to ensure that the following information is made available to each councillor as soon as practicable after the order is made:
 - (a) the date on which the order was made,
 - (b) the amount of the fine, penalty or costs, and
 - (c) the act or omission giving rise to the fine or penalty, or the nature of the legal proceedings giving rise to the costs, as the case may be.
- 6.2 This is to also include receipt of a notice being issued by a Government agency against Council, and
- 6.3 Any matter that may potentially lead to legal action being taken against Council, and
- 6.4 If an appeal against a Council decision is lodged in the Land Environment Court.
- 6.5 Reports to Council are to be made on a quarterly basis by the Service Manager Legal & Risk.
- 6.6 This report is to also provide an update on the status of Council's outstanding legal matters, to ensure the Council is kept informed of its potential financial exposure to penalties or the like for a failure to comply with legal and financial obligations.

Reporting Legal Matters Policy

- 6.7 On the same day as receiving a fine or penalty, Service Managers in all sections are required to provide information by phone, confirm by email and report in person where relevant, to the Portfolio General Manager who is responsible for their Strategic Pillar.
- 6.8 A copy of this information is also to be made available to the Service Manager Legal & Risk for compilation in the quarterly legal report.
- 6.9 The Service Manager must then provide a report to the next available Council meeting containing the following information:
 - (a) the date on which the order was made,
 - (b) the amount of the fine, penalty or costs, and
 - (c) the act or omission giving rise to the fine or penalty, or the nature of the legal proceedings giving rise to the costs, as the case may be.
- 6.10 Service Managers are required to inform their Portfolio General Manager and the Service Manager Legal & Risk of matters with potential to escalate to legal action such as a threat of a claim against Council's Public Liability, for example a trip incident on a footpath.
- 6.11 Notification to the Portfolio General Manager and Service Manager Legal & Risk must be made by phone and confirmed by email as soon as possible. The Portfolio General Manager will then ascertain the critical detail of the matter and inform the General Manager within 24 hours of being notified by the Service Manager.
- 6.12 The General Manager will then report to Council as required, and where there is an incident with a higher potential to escalate to legal action the notification process will be more urgent with notification to the General Manager as soon as possible.
- 6.13 The General Manager will then report to the Mayor within 1 hour of being notified of the incident and will provide advice to all Councillors by memo within 1 working day.
- 6.14 The Service Manager Risk is also to keep the CEO/General Manager briefed on potential major insurance claims which the Council may face. This information will also form part of the Legal Matters Report to Council.

7. REVIEW

This is a statutory policy in accordance with Clause 314A of the *NSW Local Government (General) Regulation 2005*, and will be reviewed within 12 months after a general local government election.