



TOWN OF COCHRANE POLICY

Policy No.:	2101-01
Policy Title:	Employment Related Legal Proceedings
Approval Date:	May 10, 2010
Revision Date:	
Department:	CAO Office

Policy Statement

The Town of Cochrane may become involved in legal proceedings where Employees of the Town, both past and present, are named or identified together with the Town as parties. This policy and procedure articulates when and how the Town will deal with such matters and what support will be provided to Employees.

1. Reason for Policy

- 1.1 To establish guidelines in determining when, and how, the Town will provide legal representation and compensate an employee and/or former employee expenses in reference to legal proceedings.

2. Definitions


- 2.1 Honestly and in Good Faith means acting with an honest intent to perform the Employee's duties and job responsibilities in the best interests of the Town.
- 2.2 Legal Proceedings include any proceeding before a court or administrative tribunal.
- 2.3 Defendant means a person or entity that is named as a defendant in a legal proceeding.
- 2.4 Liability means a finding by a court that the Employee is responsible to a third party for damages or other legal relief.
- 2.5 Investigation includes any inquiry, review or assessment that the Town may instigate concerning an actual or potential legal proceeding.
- 2.6 Witness means a person with knowledge or information relevant to a legal proceeding that may be compellable to give evidence in the legal proceeding.

3. Responsibilities

- 3.1 Town Council to:
 - 3.1.1 Approve by resolution this policy and any amendments.
 - 3.1.2 Consider the allocation of resources for successful implementation of this policy in the annual budget process.
- 3.2 Chief Administrative Officer to:
 - 3.2.1 Implement this policy and approve procedures.
 - 3.2.2 Communicate the policy to the Senior Leadership Team
 - 3.2.3 In consultation with Director(s) and Human Resources, assign legal representation where required.
- 3.3 Director of the Department to:
 - 3.3.1 Communicate the policy to employees.
 - 3.3.2 Work with Senior Leadership Team and Human Resources to implement as appropriate.
- 3.4 Manager or Supervisor to:
 - 3.4.1 Understand, and adhere to this policy and procedure.
 - 3.4.2 Provide appropriate management direction and coaching to employees to prevent and/or minimize exposure to legal risks.
 - 3.4.3 Approve related expenses.
- 3.5 All Employees to:
 - 3.5.1 Understand and adhere to this policy and procedure.
 - 3.5.2 Abide by Town of Cochrane Administrative Directives.
 - 3.5.3 Work within the scope of their position or employment contract.
- 3.6 Human Resources to:

- 3.6.1 Work with department management teams and subject matter experts to develop work processes which minimize risk.
- 3.6.2 Develop a communication plan to support policy awareness
- 3.6.3 Provide consultation to the senior leadership team and department Managers in cases where employees or past employees are involved in legal issues.

4. End of Policy

	<h1 style="margin: 0;">Town of Cochrane Procedure</h1>
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1. General

- 1.1. Subject to sections 1.2, 1.3 and 1.4 of this procedure, the Town will indemnify Employees and former Employees for any liability, costs, charges and expenses related to a legal proceeding that an Employee sustains arising from the performance of their duties with the Town.

- 1.2. The Town will not indemnify past or present Employees for any liability, costs, charges or expenses where the Town determines the Employee failed to act honestly and in good faith or where the Employee acted outside the scope of their employment with the Town.

- 1.3. Where an Employee or former Employee fails to participate in the investigation and conduct of legal proceedings as reasonably required by the Town, the Town shall not be obligated to provide the indemnity referred to in section 1.1 of this procedure.

- 1.4. Where the Town and an Employee or former Employee are named as parties in legal proceedings, the Town may elect to have the same lawyer or law firm represent both the Town and the Employee. If the Employee wishes to have their own lawyer, the Employee shall be responsible for paying the costs of their lawyer. If the Town elects to have separate counsel represent the Town and the Employee, the Town may pay all the costs of the **Employee's lawyer provided that the reason that the Employee has a separate lawyer does not involve an issue as to whether the Employee failed to act honestly and in good faith with a view to the best interests of the Town or**

that the Employee acted outside the scope of their employment with the Town.

- 1.5. Where the Town's insurer appoints counsel for the Town in respect of any legal proceedings, the Town may elect to have separate counsel represent the Employee in the proceeding and the Town may pay all the costs of the Employee's lawyer provided that the reason that the Employee has a separate lawyer does not involve an issue as to whether the Employee failed to act honestly and in good faith with a view to the best interests of the Town or that the Employee acted outside the scope of their employment with the Town.
- 1.6. Nothing in the policy and procedure shall be interpreted as requiring the Employee to give anything other than honest and true evidence in the course of any legal proceedings.

2. Current Town Employees

- 2.1. Where reasonably required by the Town, Employees shall participate in the investigation and conduct of legal proceedings, as witnesses or otherwise, without additional compensation during the currency of their employment.
- 2.2. The Town shall reimburse all reasonable travel costs associated with any requested participation in legal proceedings. All costs should be approved by the Employee's immediate Manager or Supervisor.
- 2.3. If the Chief Administrative Officer is required to participate in legal proceedings, all the costs he or she may incur shall be submitted to and approved by the Director Corporate Services.
- 2.4. The foregoing provisions shall apply whether or not the Employee is named as a defendant in the legal proceedings.

3. Former Employees

- 3.1. As a condition of the indemnity referred to in clause 1.1 above, where reasonably required the Town or its insurers

will request former Employees to participate in the investigation and conduct of legal proceedings, as witnesses or otherwise.

3.2. The Town or its insurers (where insurance policies allow) shall compensate former Employees named in a legal claim for their time spent in the requested participation in legal proceedings. The Town shall compensate the former Employee based on the higher of:

3.2.1.1. The compensation the Employee was receiving when last employed by the Town; or

3.2.1.2. The compensation loss caused by absence from their current employment due to their participation in the legal proceedings.

3.3. The former Employee shall submit an invoice summarizing all hours worked related to the legal file and submit hours to the appropriate department Manager for approval.

3.4. The Town shall reimburse all reasonable travel costs associated with the requested participation in legal proceedings. All costs must be submitted to the appropriate department Manager for approval.

3.5. The forgoing provisions shall apply whether or not the former Employee is named as a defendant in the legal proceedings.

4. End of Procedure

Approval



Julian deCocq, C.A.O.

Mar 25 2010
Date