Legal Services

1. Purpose

The purpose of this policy is to provide a framework for:

- the delivery of internal legal services by Council's in-house legal practitioners, and
- the engagement and use of external legal services by Council.

2. Scope

This policy applies to all employees of Council.

3. Related Documents

Legal Services Directive

4. Statutory Requirements

Acts	*Local Government Act 1993* *Legal Profession Act 2007* *Rules of Practice 1993*
Regulations	Not applicable
Australian/ International Standards	Not applicable

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5. Definitions

Legal Services means the internal services provided by Council's Senior Legal Counsel and its legal services panel.

Model Litigant means the common law guidelines regarding how a government (including local government) should conduct itself before, during and after legal proceedings against another government agency, a company or an individual.

Practising Certificate means the certificate granted to a qualified legal practitioner by the Law Society

6. Policy Statement

1. Background

Council provides a diverse range of local government services to the Glenorchy community and has necessary core business functions to discharge and statutory obligations to meet, including:

- regulation and enforcement
- infrastructure and service delivery
- facilities maintenance and management
- the entering into and management of contracts and commercial and non-commercial ventures
- risk management and human resource management, and
- the acquisition and disposal of property, including leasing, licensing and casual hire by commercial and not for profit organisations.

The efficient and effective provision of these services to protect the interests of Council, its assets and the community often requires legal advice and the assistance of legal support services. Legal services can be provided by legal practitioners employed by Council or by taking advice from external legal practitioners employed in law firms.

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As a public body utilising public funds, Council must ensure that its use and procurement of legal services is consistent with both its statutory functions and obligations, and the expectations of the Glenorchy community and in efficiently and effectively protecting Council's interests and assets.

2. Objectives

The following objectives are to guide Council in its use and provision of legal services with guidance notes as to how these objectives are to be achieved.

Objective 1

To ensure that Council has access to legal advice to support appropriate decision making over the short, medium and long terms.

Actions

To achieve Objective 1, Council will:

1.1 maintain an in-house legal service, led by a senior legal practitioner with appropriate qualifications, experience skill and resources to facilitate and oversee the provision of legal support within all of Council

1.2 ensure that any person employed as a legal practitioner by Council holds or is deemed to hold a current Tasmanian Legal Practising Certificate, and is otherwise appropriately skilled and qualified, and

1.3 establish and communicate agreed service level standards for the provision of legal services, and procedures and expectations for Council staff seeking legal advice.

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Objective 2

To use legal services appropriately to manage and balance the risks involved with providing local government service outcomes for the community.

Actions

To achieve Objective 2, Council:

2.1 recognises that the engagement of external law firms is appropriate in situations where there is a shortage of internal legal services resources where:

- specialised advice is required
- there is a risk that obtaining internal legal advice could give rise to a conflict of interest
- there is a temporary shortage of resources in legal services (e.g. illness, leave, or an abnormal peak in workload, the matter pertains to the chief executive officer's (CEO) contract of employment, or
- the risk associated with legal advice and action is such that external legal support is appropriate.

2.2 will establish a directive and line of authority for the approval of requests for external legal advice, which will specifically address requests for external legal advice by the chief executive officer

2.3 will endeavour to ensure that all management and senior staff have appropriate knowledge of the roles and responsibilities of Council's in-house legal service and the capacity to make sound decisions in relation to when it is appropriate (and not appropriate) to seek legal advice

2.4 will implement procedures that clearly define the expectations and responsibilities of all staff when communicating (internally and externally) on matters which may have legal implications for Council, and

2.5 will require the approval of Council where expenditure on any individual legal matter

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exceeds $25,000 (exc GST).

Objective 3

To actively manage Council's use of legal services to achieve the minimum cost to the community that is consistent with effective Council service provision and community expectations.

Actions

To achieve Objective 3, Council will:

3.1 establish and maintain a panel of experienced external legal service providers, to be appointed through a formal procurement process, with providers to be assessed on both skills and expertise and value for money for the level of service provided (with discretion to be retained by the CEO and the manager of the Council legal department to engage a legal service provider which is not on the panel)

3.2 subject to direction by the CEO only refer matters to external legal services in the circumstances specified in Action 2.1

3.3 actively monitor Council's expenditure on external legal services and ensure that appropriate corporate reporting data is available to the elected body of Aldermen and internal decision makers

3.4 balance the cost of engaging external legal services against the potential financial and regulatory consequences for Council of not obtaining appropriate and timely legal advice.

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Objective 4

To protect the integrity of Council's legal advice from conflicts of interest, loss of privilege and by ensuring the confidentiality of legal advice.

Actions

To achieve Objective 4, Council:

4.1 adopts the Glenorchy City Council In-House Legal Services Independence Statement which is **Attachment 1** to this policy

4.2 directs that any advice required to assist Council in matters pertaining to the CEO's contract of employment be obtained from independent external lawyers

4.3 will implement procedures and delegations to clarify the roles and responsibilities of decision makers in respect to legal matters (which recognise and protect the independence of Council's inhouse legal team and the duties of legal practitioners), and

4.4 will ensure that the confidentiality and integrity of sensitive legal information is maintained in accordance with all legal, fiduciary and ethical obligations.

Objective 5

To minimise the impact of avoidable disputation by promoting, where appropriate, early dialogue and alternative dispute resolution as an alternative to formal legal action.

Actions

To achieve Objective 5, Council will:

5.1 only commence formal litigation where Council has considered other forms of dispute resolution and the public interest

5.2 consider the interests of the Glenorchy community before initiating legal proceedings.

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Objective 6

To comply with Council's obligation to act as a model litigant.

Actions

6.1 Council will conduct itself as a model litigant in any proceedings in which it is involved. Council's conduct as a model litigant may include:

- dealing with claims promptly
- minimising delay in proceedings
- making an early assessment of the prospects of success and potential liability in claims
- paying legitimate claims (that have been substantiated with appropriate evidence) without commencing litigation
- acting consistently in the handling of claims and litigation
- endeavouring to avoid, prevent or limit the scope of litigation and participating in alternative dispute resolution where appropriate
- minimising costs in proceedings
- not taking unfair advantage of a claimant who lacks the resources to litigate a legitimate claim, and
- taking a high moral and ethical stance while also protecting Council's interests.

3. Legal Services Directive

This policy is to be supported by a legal services directive which set out prescriptive procedures and requirements that will be adopted to seek to achieve the objectives. Council may combine any actions arising from this policy into a single legal services directive, or into multiple legal services directives that address separate policy areas, as appropriate.

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7. Version Control

Version	V 4.0	**Adopted**	26 October 2026	**Commencement date**	28 October 2026
Minutes reference	Item 11.5			**Review period**	4 years from adoption
Previous versions	V3.0 adopted 19 December 2022 (Council meeting, Item 14) V2.0 adopted 25 March 2019 (Council meeting, Item 21) V 1.0 adopted 12 December 2017 (Council meeting, Item 11)				
Responsible Directorate	Community and Corporate Services		**Controller**	Manager Governance & Risk	
ECM Document no	Policies by Directorate				

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Attachment 1

Glenorchy City Council In-House Legal Services

Independence Statement

Council's employed lawyers must ensure that the advice they provide is objective and impartial in compliance with the professional obligations of practitioners of the legal profession in Tasmania.

In particular, Council's employed lawyers must be entitled to practice as a legal practitioner in Tasmania, subject to and in compliance with the *Legal Profession Act 2007* and a range of imposed conditions including (but not limited to):

- individual lawyers can only engage in providing in-house legal services to Council, subject to any other conditions issued by the Law Society of Tasmania, and
- individual lawyers must undertake continuing professional development in compliance with relevant Law Society practice directives and legal requirements.

The following statements highlight the characteristics of the independence of Council's employed lawyers to the rest of the organisation.

- Council's legal services will be provided in an independent and professional manner in accordance with each individual lawyer's responsibilities as an officer of the Court or Courts in which they are admitted to practice and the laws, regulations and professional rules applying to legal practitioners in Australia.
- The professional duties of Council's employed lawyers may take precedence over their duties to Council or individuals within Council. Their legal and ethical obligations must be observed and performed, including the duty to avoid conflicts and to not participate in or allow conduct or actions which may not be in accordance with legal or ethical requirements.

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- The primary role of Council's employed lawyers is to provide legal advice, as opposed to commercial advice. Council's employed lawyers may provide commercial advice in an advisory capacity, provided it does not, in their reasonable opinion, conflict with their ability to provide impartial and unbiased legal advice. This distinction will be clearly understood where a lawyer is providing legal advice to assist the Council in making a commercial assessment of a particular matter.
- Council's elected members, management or staff must not seek to inappropriately influence the proper exercise of the independent professional judgment of any Council employed lawyer.
- If any Council employed lawyer forms the view that their ability to provide impartial legal advice has been, or may be, compromised, they should immediately inform the designated Manager of the legal department or the CEO and, if necessary, declare a conflict of interest and refer the matter for external legal advice.
- The identity of the 'client' in each instance of provision of legal advice should be clear and for what purpose the advice is sought. The overarching fiduciary duty of a Council employed lawyer is to the Council a whole. A Council employed lawyer does not owe a duty of confidentiality on an individual basis to any individual, including an elected member, a member of management or staff where to do so would in the reasonable opinion of that lawyer, prejudice or jeopardise the interests of Council as a whole or be reasonably determined by an objective legal practitioner to be misleading, deceptive, unethical or unlawful. For example, a Council employed lawyer cannot provide personal advice to any individual including an elected members, or a member of management or staff where that advice conflicts with the broader interest of Council and the Glenorchy Community or is unlawful or hides or deprives critical information or advice that ought to be known by a wider audience than the individual whom the information or advice has been provided to or requested.
- Provided they have acted competently and in good faith, a Council employed lawyer cannot face disciplinary action where they have acted in accordance with their legal and ethical obligations, even where their decision or conduct is not in favour of Council as a whole or is not in alignment with the request or instruction of an individual person, elected member, member of management or staff.

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- The importance of maintaining and not waiving legal professional privilege is paramount to the interests of Council. There may be situations where a Council employed lawyer can only provide legal advice or information to certain individuals and within certain contexts within Council, (for example the CEO or to Council in a closed session) so as not to compromise Council's position or rights.
- Where a Council employed lawyer performs both legal and non-legal roles those roles must be clearly delineated and the distinction identified where appropriate in relevant communications.
- Nothing limits, waives, or reduces the obligations of a Council employed lawyer in relation to their professional and ethical obligations as an officer of the Court and as a legal practitioner pursuant to the *Legal Profession Act 2007* and *Rules of Practice 1994*, or any national legislation or rules or other equivalent or replacement legislation, code, regulation, rules or requirement.

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