

LEGAL PROCEEDINGS (PROSECUTIONS)

1. Objectives

To provide guidance to the administration on the conduct of legal proceedings and the obtaining of legal advice.

2. Principles

The administration is authorised to conduct legal proceedings relating to the enforcement of By-laws or Acts of Parliament which Council is responsible for administering.

The administration is authorised to initiate legal proceedings to recover any fines or penalties imposed under Council By-laws or Acts of Parliament which Council is responsible for administering.

Legal opinions should only be sought after due consideration has been given to:

- a. importance of the issue
- b. likely cost
- c. availability of advice from other sources for example, WALGA, other Councils

Legal opinions and advice should be sought from the legal firm with the expertise in the area in which the opinion/advice is being sought and at the cost commensurate with that expertise.

3. Issues

The cost of conducting legal proceedings may be expensive. The outcome of a prosecution may result in a minimal penalty/fine being imposed on the offender and only modest costs being recovered.

Some issues have to run the full course of the legal system due to the need to satisfy community concern and discourage others from conducting activities, or taking actions against the community interest.

4. Policy

The Chief Executive Officer is authorised to initiate legal proceedings through Council's Solicitors and/or through Authorised Officers to prosecute offences and for the recovery of any fines, or penalties from any person committing an offence under the *Local Government Act 1995* and By-laws made in accordance with the provisions of that Act, the *Health Act 1911*, the *Litter Act 1979*, the *Dog Act 1976*, and the *Bush Fire Act 1954* or any other Acts of Parliament which Council is responsible for administering.

The Chief Executive Officer is authorised to obtain from Council’s Solicitors such other legal advice and opinion as is deemed necessary.

Legal advice/opinions should be sought from solicitors best able to provide expert advice at a reasonable cost. Reliance should not be placed on any one legal firm.

The Chief Executive Officer is authorised to suspend or withdraw legal proceedings if the circumstances warrant such action.

Legal opinions shall be kept on a separate file among Council’s permanent and confidential records.

Adopted	March 1995
Reviewed	22 August 2011
Expected date of review	