

PROPOSED NOTICE OF MOTION

Name: Cr Steve Kepert

Date of Meeting: 15th June 2021

Meeting of the: Ordinary Meeting of Council

Subject: Review of Policy CP-017

PROPOSED NOTICE OF MOTION: CITY OF MELVILLE

The Council directs the CEO to make the following amendments to CP-017 Legal Representation Policy Elected Members and Employees.

- 1. Delete under 1(c) “, except in exceptional circumstances,”**
- 2. Delete under 1(c) “The City, at the discretion of the Chief Executive Officer, may seek preliminary advice on any aspect relating to such comments and criticisms of relevance to it and may support action where exceptional circumstances are involved – for example, where a person or organisation is potentially lessening the confidence of the community in the local government by publicly making adverse personal comments about Elected Members or employees. The value of the preliminary advice is not to exceed \$5,000.”**
- 3. Delete under 2(a) “and 2(e),”**
- 4. Delete section 2(e) “Where there is a need for the provision of urgent legal services before an application can be considered by the Council, the Chief Executive Officer may give an authorisation to the value of \$3,000. Such authorisation shall be followed up by a report from the Chief Executive Officer to the next available Council meeting, outlining the circumstances behind the urgency of the matter.”**
- 5. Delete section 2(f) accordingly.**
- 6. Create a new section 1(b) with the following text:**

“All applications for legal assistance provided by the City must first be approved by the Council.”

and shift the remaining sections down accordingly.

REASONS:

In April 2018 the City's administration under former CEO Shayne Silcox sought the Legal Representation policy to be extended to employees of the City, where it was previously only extended to Elected Members and volunteers.

The most significant amendment gave power to the CEO to be able to use City funds to take legal actions against external parties, including Melville ratepayers, at his or her discretion. Despite requirements to report this action to the Council for its approval, the process is only retrospective and does not prevent misuse.

This key change is also absent from the key issues/summary section of the relevant motion in the minutes of the April 2018 Ordinary Meeting of Council. Several of these changes conflict with other sections of the policy. The motion was carried 6 votes to 3. This item was brought to an EMIS held on the 13th of October 2020.

In 2020, officers used this provision of the policy to use City funds to take legal action against a Melville ratepayer.

This motion revokes that power for officers to be able to use City funds for legal actions against external parties without the prior approval of the Council.

Part one removes the principle statement that the City will support access to legal services for any defamation actions seeking the payment of damages to individual Elected Members or employees in "exceptional circumstances", as determined by the CEO.

Part two removes the amendment made in 2018 which states as a principle that officers can use City funds for legal actions against external parties without the prior approval of the Council.

Part three is a clerical amendment.

Part four removes another provision for the CEO to be able to use City funds without prior authorisation of the Council.

Part five is a clerical amendment.

Part six reasserts as a general principle that the Council must approve all applications for City-funded legal assistance.

SIGNATURE: Steve Kepert