



POLICY

| Indemnification and Legal Aid | |
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| Policy Number: 130-027 | Supersedes Policy Number: Not Applicable or Policy No. |
| Effective Date: 2021-06-15 | Approved by Council Motion Number: 04-06-21 |

1.0 Purpose

To establish a Policy that permits the Town to provide indemnification to Town employees and representatives for liabilities arising out of the good faith performance of their duties for the Town.

The Town of Wolfville is committed to:

- Promoting an environment in which its employees and representatives may perform their duties without concern of civil or criminal liabilities arising from the good faith performance of those duties
- Protecting the Town's interests in relation to potential or actual liability arising from the acts or omissions of an employee or representative
- Providing an environment in which its employees and representatives are protected from discrimination and/or harassment

2.0 Scope

This policy is applicable to all Town employees and representatives. This policy does not apply to allegations or complaints of discrimination or harassment by a Town employee or representative against another Town employee or representative.

3.0 References

- 3.1 Nova Scotia *Municipal Government Act* (MGA)
- 3.2 Nova Scotia *Municipal Conflict of Interest Act* (MCIA)



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4.0 Definitions

4.1 EMPLOYEE OR REPRESENTATIVE

All direct employees of the Town as well as all Town Council members.

4.2 DUTIES

The employee's work as defined within their respective job description and/or other tasks or actions that are authorized by the employee's manager/supervisor. The representative's actions in carrying out their mandate as authorized by Bylaw, Policy, Resolution or otherwise under the MGA.

4.3 GOOD FAITH

The carrying out of one's duties which are performed honestly, openly and without malice or ulterior motive, even if the performance is done negligently or results from an error in judgment.

4.4 INDEMNIFICATION

Compensation to or on behalf of an employee or representative for legal fees and/or financial losses incurred by them in respect of civil, criminal or administrative actions or proceedings to which they become a party as a result of carrying out their duties.

4.5 HARASSMENT OR DISCRIMINATION

This Policy only applies to harassment or discrimination perpetrated by non-Town employees or representatives. Harassment includes criminal harassment, sexual harassment as defined under the Nova Scotia *Human Rights Act* (HRA) and conduct prohibited under the Nova Scotia *Intimate Images and Cyber-protection Act*. Discrimination means discrimination as defined under the HRA.

4.6 LEGAL ASSISTANCE

The provision of legal representation and advice by the Town or another approved outside legal counsel.

5.0 Policy

5.1 CRITERIA



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Employees or representatives who meet all of the following criteria may be eligible for indemnification and/or legal assistance:

- the employee or representative's actions or omissions at issue were within the scope of their duties and authority
- the employee or representative acted in good faith
- if applicable, the employee or representative reasonably believed that their conduct at issue was lawful
- if applicable, the employee or representative became a victim of harassment or discrimination in connection with their role with the Town or the carrying out of their duties.

5.2 NOTIFICATION AND DETERMINATION OF ELIGIBILITY

In order to be eligible for indemnification and/or legal assistance, employees or representatives must inform the Town CAO at the earliest opportunity after experiencing discrimination of harassment or becoming aware of any alleged act or omission arising during the course of their duties that may give rise to the need for legal counsel or to a claim against them or the Town. In the case of a claim against the employee or representative, the notification must include details identifying:

- Relevant and related events
- A description of the incident / event
- A list of persons who are directly involved and/or potential witnesses
- Details regarding charges (or accusations) against the employee
- Any actions taken to correct the situation

The CAO will inform Town Council. The Town Council shall, on an *in camera* basis, determine whether the employee or representative meets the requirements of this policy for indemnification and/or legal assistance, whether indemnification and/or legal assistance will be provided, and if so, the terms of the indemnification and/or legal assistance. In the event a member of Council is the party seeking indemnification and/or legal assistance, the provisions of the MClA shall be observed.

5.3 PROVISION OF LEGAL ASSISTANCE



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Employees and representatives may be eligible to receive legal assistance under certain circumstances, which include the following:

- They are charged with a criminal or provincial offence
- They may be subject to a penalty, including an administrative penalty.
- They are sued or threatened with a civil action
- They are required to be a witness at a trial as a result of a work-related duty
- They are required to appear before a judicial inquiry or other inquests
- They are interviewed by the police or other authorities in circumstances that may lead to charges against the Town
- They are subject to disciplinary proceedings of their professional organization for issues related to professional conduct during the course of their duties
- They are a victim of harassment or discrimination

If legal assistance is to be provided, the Town solicitor or approved legal counsel for the Town will normally provide such assistance.

If the provision of outside counsel is approved in accordance with this Policy, conditions regarding payment such as maximum reimbursement will be determined by Town Council on an *in camera* basis.

Employees and representatives are responsible for cooperating with assigned legal counsel.

Employee or representatives who are approved for legal assistance in accordance with this Policy may choose to obtain outside legal counsel at their own discretion and at their own expense. If an employee or representative wishes to decline representation by the Town, a written confirmation must be submitted.

The Town shall have conduct of any proceedings for which legal assistance has been provided under this policy.

The Town reserves the right to recover any indemnification or other costs by way of subrogation or other avenues.

Any decision to provide indemnification to an employee under this policy does not preclude a department from taking disciplinary or administrative action against the employee or representative if appropriate.



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5.4 REIMBURSEMENT

In the event an employee or representative becomes a victim of harassment or discrimination and decides to retain counsel independently to institute legal proceedings against the perpetrator(s), upon the approval of Council acting *in camera*, employees or representatives may be reimbursed for legal expenses to a maximum of \$20,000 where reimbursement of funds is warranted upon consideration of all the circumstances.

The Town Council may, in its sole discretion, put such limits and/or terms upon the reimbursement provided in this section 5.4 as it deems fit.

5.5 CONTRAVENTION OF THE MCIA

No indemnification or legal assistance will be provided to an employee or representative in respect of an allegation that they contravened the MCIA.

2021-06-15

CAO or Town Clerk

Date