

Policy number	Policy 003
Policy title	Legal advice – Engage solicitor for opinions
Strategic outcomes supported	CL3 - Accountability and good governance

Policy objective:

To establish the considerations prior to seeking legal advice.

Policy scope:

This policy applies to the intended procurement of any legal advice or legal representation by the Town.

Policy definitions:

legal advice means:

- the procurement of specialist advice for areas of work where there are gaps in specialist and/or legal knowledge within the Town; or
- for the engagement of legal representation in a court or tribunal.

Policy statement:

- To prescribe procedures for the Town's administration in obtaining legal advice or engaging legal representation to ensure the most efficient and effective use of these resources.

Introduction:

- The Town will seek expert legal advice where, in the opinion of the Chief Executive Officer (CEO), that advice is required to:
 - minimise the potential risk of litigation;
 - obtain assistance on interpretation and implications of relevant new and/or existing legislation or legal precedent;
 - clarify statutory powers and responsibilities;
 - clarify the Town's responsibility to take action to protect the health, safety and well-being of the Town's ratepayers/residents, general public and protection of property;
 - ensure the best commercial outcome for the Town; or
 - represent the Town in matters proceeding to a court or tribunal.

Authorisation:

- The CEO only will be able to access legal advice.
- Where necessary, the CEO may approve of other employees obtaining legal advice.

Legal Advice:

5. The legal advice will be sought from the panel of legal practitioners established by the Western Australian Local Government Association (WALGA) as updated from time to time, or from another legal firm having specialised expertise in the matter being considered in accordance with Policy 301 - Purchasing.
6. All legal advice will be recorded in a Legal Advice Register or appropriate file.

Procedure:

Introduction

7. Many legislative duties and functions are discharged on a daily basis through employees being aware of legislation which they are authorised to administer as well as through the development and implementation of policies and procedures.
8. There may be occasions, where new, unfamiliar, urgent or potentially high risk circumstances emerge which are not covered by the Town's standard procedures or documentation. In these circumstances, it may be necessary to seek further advice.

Risk Assessment

9. In circumstances where legal advice is being obtained it will usually be necessary to undertake a risk assessment.
10. Factors that need to be considered in determining whether professional legal advice may be required include:
 - a. Actual or potential risk of litigation;
 - b. Assistance on interpretation and implications of relevant new and/or existing legal precedent or legislation;
 - c. Lack of clarity around statutory position, powers or responsibilities;
 - d. The responsibility of the Town to take responsible action to protect the health, safety and wellbeing of the Town's ratepayers/residents, general public and protection of property;
 - e. The need to be represented by legal counsel in a court or tribunal.
11. By the nature of the Town's business and its position as a public authority, legislative compliance is a statutory duty.

Requesting Legal Advice

12. For certain matters it may be possible to obtain legal advice quickly over the telephone.
13. To assist the Town's legal advisers to provide comprehensive advice, where possible, it will be necessary to include details of all relevant factors provided or reference all relevant documentation and outline specific issues on which advice is being sought.
14. Any guidance or advice given should ideally be given in writing. Careful consideration needs to be given to the method of communication to ensure that confidentiality and the rules around transmission of confidential material are adhered to.
15. In the unlikely event that legal advice is required out of hours, this should be referred to the CEO for authorisation.

Recording and Monitoring

16. The advice should be recorded on the Legal Advice Register or appropriate file, which will become a reference point for authorised persons and is to be reviewed prior to making legal enquires. This will help to develop a knowledge base on the legal matters within the Town.

Legal Advice Providers

17. The Town will obtain legal advice from:
 - a. WALGA's Legal Services Panel of Preferred Suppliers; or
 - b. Another legal firm having expertise in the matter being sought.

Internal Procedure

18. The following procedure is to be followed:
 - a. Prior to contacting any solicitors/lawyers for any advice, a 'Legal Advice Authorisation Form' as prescribed by the CEO, is to be completed and the matter is to be referred (either by memorandum or orally) to the CEO.
 - b. The Town will seek preliminary advice from WALGA's Legal Services Panel of Preferred Suppliers (or at least two of them) as to the prospect of success of any action/appeal and an estimate of fees/costs.
 - c. After considering the legal firm's response, the CEO may prescribe a maximum amount which is not to be exceeded unless a variation is subsequently approved.

Authorised Persons

19. Where an employee has been authorised to make a direct approach to external legal advisers, they are individually responsible for ensuring that the firm approached is on WALGA's Legal Services Panel of Preferred Suppliers. If consideration is being given to the use of another firm, approval should be obtained from the CEO.

All Employees to Comply with the Policy Procedure

20. All employees must comply with this procedure. In particular, employees are reminded that there shall be no direct approach to external legal advisers without proper authorisation, and that any contact or correspondence relating to matters of civil or criminal liability should be passed immediately to their relevant Chief or the CEO.

Implementation

21. All Chiefs and Managers are responsible for ensuring that all employees within their responsibility have read and understood this document and are competent to carry out their duties in accordance with this policy and procedure.

Related documents

Responsible officers	Coordinator Governance and Strategy
Policy manager	Manager Governance and Strategy
Approval authority	Council
Next evaluation date	April 2025

Revision history

Version	Action	Date	Authority	Resolution number	Report number
1	Adopted	22/02/2011	Council	-	Item 11.2
1	Reviewed	09/07/2013	Council	-	Item 10.1
1	Reviewed	11/08/2015	Council	-	Item 10.1
2	Reviewed and amended	20/08/2019	Council	148/2019	Item 10.1
2	Reviewed	17/03/2020	Council	354/2020	Item 15.3
3	Reviewed and amended	20/04/2021	Council	78/2021	Item 15.4
4	Reviewed and amended	12/04/2022	Council	73/22	Item 15.5
5	Administratively amended	24/08/2023	Delegation		

Policy number	Policy 117
Policy title	Business grants D23/43920
Strategic outcomes supported	CL1 – Effectively managing resources and performance EC1 – Facilitating a strong local economy

Policy objective:

To establish transparent and effective guidelines for the administration of grants to local businesses and business groups that support vibrancy, innovation and economic development.

Policy scope:

This policy applies to any party seeking funding from the Town of Victoria Park for a Business Grant.

Policy definitions:

Advertised closing date – the date by which the Town of Victoria Park requires complete applications to be received for an advertised funding round.

Match-Funding – is a requirement for the applicant to provide a specified percentage of the total amount needed to deliver the project, activity or program.

Regulatory Approval – an approval, licence or permit required by a government body, statutory authority or similar for the carrying out of works or activities, including but not limited to Development Approvals, Building Licences, Liquor Licences, Food Business Registration and Free Trade Area Permits.

Standard Operating Expenses – are expenses that are core to the basic operation of a business and not directly related to delivering a unique project, activity or program.

Policy statement:

Administration of Business Grants

1. The Town of Victoria Park may administer Business Grants to support economic development objectives provided in the Economic Development Strategy.
2. Business Grants are subject to a regular budget review process and availability of funding. The Town of Victoria Park reserves the right to suspend the administration or availability of Business Grants at any time.
3. The Town of Victoria Park will advertise when it is accepting applications for Business Grants on its website and such other appropriate mediums. Applications may be accepted during set funding rounds or on an ongoing basis.
4. The Chief Executive Officer will be responsible for the operational management of Business Grants.
5. All funding provided under this policy is to be reported on in the Annual Report.
6. The Town must ensure that all documentation relating to the Business Grants, including executed agreements, is recorded, as required under the *State Records Act 2000*.

Conflicts of Interest

7. In the administration and awarding of Business Grants any real, potential or perceived conflicts of interest are to be managed in keeping with the *Local Government Act 1995*, the code of conduct and the Town's values.
8. In order to achieve this, in keeping with the requirements of the *Local Government Act 1995*, *Local Government (Model Code of Conduct) Regulations 2021* and *Local Government (Administration) Regulations 1996* employees and elected members with any involvement in Business Grants shall declare:
 - a. any financial, indirect financial, proximity or gift interests that they have with any applicant for a Business Grant; and
 - b. any impartiality interests they have with any applicant for a Business Grant.
9. As is required under the Act, where any employee or elected member discloses a financial, indirect financial, proximity or gift related interest they must not be involved in that particular Business Grants application. If:
 - a. this is as a member of a panel, they must not participate in the panel and the CEO should appoint another person as a member of the panel;
 - b. as an employee who awards or assesses applications for a grant, the application must be referred to another appropriate employee who can award or undertake the assessment for the grant; and
 - c. the application is referred to a committee or Council, in accordance with the requirements of the Act.
10. Where an impartiality interest by an employee is disclosed, the interest should be referred to the CEO to establish if it continues to be appropriate for that employee to be involved in the assessment process.

Eligibility

11. Any party wishing to apply for a Business Grant must:
 - a. hold Public Liability insurance of \$10 million; and
 - b. own or hold the appropriate permission to use any intellectual property associated with the proposed project, activity or program; and
 - c. meet any additional eligibility criteria for the Business Grant category being applied for.
12. The following ineligibility criteria apply to all Business Grants administered under this Policy:
 - a. The applicant has an outstanding debt to the Town of Victoria Park;
 - b. The applicant has failed to submit a satisfactory acquittal for a previous Business Grant (including COVID-19 Business Grants) or Community Grants Program;
 - c. The applicant has failed to comply with the operational Terms and Conditions of the Business Grant being applied for;
 - d. The applicant has previously received any type of grant from the Town of Victoria for the same project; or
 - e. The applicant is a Town employee or Elected Member.
13. The Business Grants will not support recurrent operational funding, including but not limited to, wages, salaries or administrative overheads.
14. Applicants must not lobby, seek to influence or canvass the decision-making of elected members or employees, in relation to their applications other than by way of an authorised presentation and/or deputation at a Council meeting. Any applicant who does so will have their application rejected.

Business Grants Categories and Assessment Criteria

15. Business Grants categories and assessment criteria will be subject to review at each evaluation date. At each review, it will be determined:
 - a. The category or categories of Business Grants that will operate for that financial year, having regard for the objectives of the Economic Development Strategy or economic development objectives of any other adopted strategic plan; and
 - b. For each category of Business Grants:
 - i. The category objective;
 - ii. Assessment criteria;
 - iii. Any additional eligibility or ineligibility criteria;
 - iv. Maximum value;
 - v. Whether match-funding will be required; and
 - vi. Whether applications will be accepted on an ongoing basis or in set funding rounds.
16. The parameters in clause 15 will be published on the Town's website and within an information pack for applicants prior to the opening of any Business Grant round.
17. In addition to the specific assessment criteria for each Business Grant category determined in accordance with clause 15, the following assessment criteria will apply to all Business Grants:
 - a. The proposed project, activity or program occurs within, or substantially benefits economic development outcomes within, the Town of Victoria Park local government area;
 - b. The applicant can demonstrate the feasibility of the proposed project, activity or program and their capability to successfully deliver the proposed project, activity or program; and
 - c. The proposed project, activity or program is a discrete piece of work and is not, in the opinion of the Town of the Victoria Park, a standard operational expense.

Approval Process

18. The Town of Victoria Park will only assess applications that are:
 - a. Received from applicants meeting the eligibility requirements laid out in this policy; and
 - b. Received by any advertised closing date.
19. The Town will convene a panel to assess all applications received, which will:
 - a. Consist of at least three suitably qualified and experienced people, none of whom shall be elected members, appointed by the Chief Executive Officer;
 - b. Assess grant applications against the requirements and Assessment Criteria set out in this policy; and
 - c. Provide recommendations of which grant applications should be accepted or rejected to the Council.
20. It is the applicant's responsibility to demonstrate in their application how the proposed project, activity or program meets the Assessment Criteria for the category of Business Grant being applied for.
21. The Town of Victoria Park reserves the right to:
 - a. Refuse a grant application, having regard for availability of funds and/or which applications best satisfy the Assessment Criteria;
 - b. Offer partial-funding of a grant application, having regard for availability of funds, match-funding, which applications best satisfy the Assessment Criteria, and ability of the applicant to deliver the proposal with partial-funding; and
 - c. Not award any Business Grants where no applications received are considered to adequately satisfy the Assessment Criteria.

22. The Town of Victoria Park reserves the right to deny funding to any party should the proposed program or initiative or party conflict with the Town of Victoria Park's Vision, Mission or Values, or bring the Town of Victoria Park's brand or reputation into disrepute, at its discretion.
23. Where a proposed project, activity or program requires a regulatory approval to commence, the Town of Victoria Park may, at its discretion, award a Business Grant subject to the required regulatory approvals being obtained prior to the commencement of the proposed project, activity or program, and within a timeframe to be specified by the Town of Victoria Park.
24. The Town of Victoria Park will notify applicants of its decision within 60 business days of the advertised closing date or receipt of a complete application, whichever is the later.
25. The final decision whether a grant application is to be approved or rejected will be made by Council following receipt of a recommendation from the assessment panel.

Acquittal Terms

26. Recipients will be required to acquit the funds within six weeks of the completion of the project, activity or program.
27. Recipients may be required to provide photographs and/or written testimonials for use by the Town of Victoria Park to promote the Business Grants program and local economy.

Related documents

Nil.

Responsible officers	Place Leader – Economic Development
Policy manager	Manager Place Planning
Approval authority	Council
Next evaluation date	February 2026

Revision history

Version	Action	Date	Authority	Resolution number	Report number
1	Adopted	31/08/2021	Council	198/2021	Item 13.1
2	Administratively amended	24/08/2023	Delegation		
3	Administratively amended	27/09/2023	Delegation		
4	Reviewed and amended	20/02/2024	Council	7/2024	Item 11.3

Policy number	Policy 405
Policy title	Events on parks and reserves – notification to local residents
Strategic outcomes supported	EC2 – Connecting businesses and people to our local activity centres through place planning and activation EN3 - Increasing and improving public open spaces

Policy objective:

To require the notification of nearby residents prior to events on parks and reserves.

Policy scope:

This policy applies in relation to events on parks and reserves.

Policy definitions:

Nil.

Policy statement:

1. Local residents shall be notified at least one (1) week prior to the event where it is intended to grant approval for the use of a park or reserve involving:
 - a. amplified sound or significant noise levels,
 - b. the likely attraction of a significant number of people,
 - c. the likely occurrence of parking difficulties or disruption to the normal traffic flow
 - d. any road closure, or
 - e. any other action likely to significantly inconvenience or disrupt the locality.
2. The costs associated with notifying the local residents are to be met by the hirer of the park or reserve.
3. An event which, in the opinion of the Town, may produce noise levels that are likely to adversely affect the comfort and convenience of nearby residents will be referred to Council.
4. Hire of reserves for seasonal sport and recreation use are exempt from the notification requirement.

Related documents

Policy 226 Recreation reserves - Hire

Responsible officers	Coordinator Events, Arts and Funding
Policy manager	Manager Community
Approval authority	Council
Next evaluation date	June 2024

Revision history

Version	Action	Date	Authority	Resolution number	Report number
1	Adopted	09/12/1995	Council		
2	Reviewed	15/08/2006	Council		Item 4.1
3	Reviewed	09/07/2013	Council		Item 10.1
4	Reviewed	11/08/2015	Council		Item 10.1
5	Reviewed and amended	20/08/2019	Council	148/2019	Item 10.1
6	Reviewed and amended	21/06/2022	Council	135/2022	Item 15.3
7	Administratively amended	24/08/2023	Delegation		