

POLICY NO: 4.1.4

FREEDOM OF INFORMATION REQUESTS

OBJECTIVES

To provide information to the public free of charge where possible while maintaining the privacy of third parties in accordance with the Freedom of Information Act.

POLICY STATEMENT

Upon receiving a Freedom of Information request the City's Freedom of Information Co-ordinator or Chief Executive Officer or his nominee will determine the status of the request in accordance with the provisions of the Freedom of Information Act.

If the determination is such that the information can be provided:

1. with less than one hour of officer time; and
2. unedited or edited to the extent that identification of a third party is protected;

then the fee, as prescribed by the Council, will be waived.

If the applicant is not satisfied with this outcome then they will be required to lodge a formal Freedom of Information request and pay the appropriate fee in accordance with the Act.

Date Adopted:	14 April 1998
Date Amended:	22 July 2003
Date Reviewed:	22 July 2003, 22 April 2008
Date of Next Review:	April 2013

POLICY NO: 4.1.27

DISASTER APPEALS – DONATIONS AND ASSISTANCE

OBJECTIVES

To provide guidance to the Council when considering requests for the provision of financial assistance and other support to alleviate the impact of disasters and other significant emergencies.

POLICY STATEMENT

1. Council to Approve Requests

All requests to provide financial assistance and other support to alleviate the impact of disasters and other significant emergencies shall be in response to an appeal launched by the Federal, State, Local Government or other bona fide agency (Lord Mayor's Disaster Appeal) and shall be reported to the Council for consideration and determination.

2. Financial Support

- (a) Financial support shall be limited to a maximum of **\$7,009** (Indexed by CPI on 1 July of each year – includes 2011 increase);
to any one disaster or other significant emergency appeal.
- (b) In the event of more than one relief organisation/agency being involved in the Disaster Appeal, the Council shall determine the most appropriate relief organisation to receive the support.
- (c) Financial support will only be made to approved agencies/organisations and cash donations will not be made directly to individuals.

3. Non-financial Support

The Council will consider support, other than financial, which includes but is not limited to:

- (a) the provision and use of the City's resources, machinery, vehicles, equipment for disasters which occur within Australia;
- (b) the use of the City's buildings and facilities for emergency accommodation and other approved purposes;

- (c) support for employees with professional expertise who wish to assist in the disaster by releasing the person on payment of their current salary and conditions, assistance to travel costs and incidental costs, provision of emergency clothing, equipment and the like which is necessary for the duration of the employees absence to a maximum of **\$7,009** (Indexed by CPI on 1 July of each year – includes 2011 increase);
- (d) the use of City as a receiving agent for any donations by the public; and
- (e) any other bona fide requests which may arise from a disaster or emergency.

4. Disasters outside Australia

Requests for all “*non-financial*” support for disasters and emergencies outside Australia will be considered on their merits.

5. Definitions

For the purposes of this policy, the following will be applied:

- (a) Natural Disasters include:
 - Floods
 - Fire
 - Cyclones/storms
 - Tsunami
 - Earthquake
 - Famine
 - Disease Threat
 - Landslide
- (b) Disasters other than Natural Causes include:
 - Civil unrest
 - War/invasion
 - Political, cultural, Religious conflicts
 - Acts of terrorism.

Date Adopted:	22 November 2005
Date Amended:	
Date Reviewed:	November 2010
Date of Next Review:	November 2015

DISASTER APPEALS – DONATIONS AND ASSISTANCE
POLICY NO: 4.1.27

CPI INCREASES FROM JULY 2009
(Perth Based CPI)

Year	CPI	Page 1, Clause 2(a)	Rounding	Page 1, Clause 3(c)	Rounding
July 2009	1.4%	\$5,950		\$5,950	
July 2010	3.5%	\$6,158.25	\$6,158	\$6,158.25	\$6,158
July 2011	3.0%	\$6,343.00	\$6,343	\$6,343.00	\$6,343
July 2012	1.0%	\$6,406.43	\$6,406	\$6,406.43	\$6,406
July 2013	2.5%	\$6,566.59	\$6,566	\$6,566.59	\$6,566
July 2014	3.3%	\$6,783.28	\$6,783	\$6,783.28	\$6,783
July 2015	1.8%	\$6,905.38	\$6,905	\$6,905.38	\$6,905
July 2016	0.9%	\$6,967.53	\$6,968	\$6,967.53	\$6,968
July 2017	0.6%	\$7,009.33	\$7,009	\$7,009.33	\$7,009

POLICY NO: 4.1.33

THIRD PARTY MEDIATION – CITIZENS ADVICE BUREAU

OBJECTIVE

To outline the role of the Citizens Advice Bureau in resolving issues of a civil matter between residents and/or ratepayers of the City of Vincent.

POLICY STATEMENT

1. Civil Matters

The City of Vincent has no jurisdiction to resolve matters that are of a civil nature.

2. Role of the Citizens Advice Bureau

(a) The Citizens Advice Bureau provides a service that aims to assist parties who have conflicting views, come to an agreeable outcome/resolution. The Citizens Advice Bureau can provide mediation for a range of neighbourhood disputes including;

- Dividing fences;
- Encroaching roots and branches;
- Dog barking;
- Nuisance;
- Noise;
- Harassment; and
- Alleged property damage.

(b) The Citizens Advice Bureau's mediation process is;

- Informal;
- Confidential;
- Neutral; and
- Free of charge, where subsidised by the Local Government.

3. Role of the City

The City of Vincent will subsidise the fees involved to facilitate mediation between the parties, provided by the Citizens Advice Bureau, to an amount prescribed in the Annual Budget.

Date Adopted:	10 May 2011
Date Amended:	
Date Reviewed:	
Date of Next Review:	May 2016

GUIDELINES AND POLICY PROCEDURES FOR THIRD PARTY MEDIATION – CITIZENS ADVICE BUREAU – POLICY NO. 4.1.33

1. Issue Raised by Resident or Ratepayer

If a resident or ratepayer contacts the City and raises an issue that is considered to be of a civil nature, the Officer is to advise them that the matter is of a civil nature and not resolved by the City.

In the first instance, the Officer is to advise that resident/ratepayer, to discuss the matter with the party with the conflicting view.

2. Unresolved Matters

If the persons of conflicting views cannot reach a mutual agreement, the City's Officers may wish to suggest that the persons discuss the matter with a mediator from the Citizens Advice Bureau. The Officer is to advise that the mediation process is;

- (a) Informal;
- (b) Confidential;
- (c) Neutral; and
- (d) Free of charge (subsidised by the City of Vincent).

3. Resident Self Referral

The residents or ratepayers are to be provided with a Citizens Advice Bureau Mediation Service brochure and are advised to contact the Perth Office to discuss the matter.

4. City Referral

In some instances, conflicting matters are referred to the Citizens Advice Bureau by the Local Government. Where this occurs, the following process is to be followed:

- (i) Provide the resident with the Citizens Advice Bureau Mediation Service brochure and outline the process involved.
- (ii) With the resident's/ratepayer's consent, complete the *Citizens Advice Bureau of WA Mediation Referral Form* with the residents/ratepayers details.
- (iii) Forward the referral to the Community Mediation Service, who will then contact the residents/ratepayers to initiate a discussion regarding the mediation.

POLICY NO: 4.2.1

**LEGAL REPRESENTATION
FOR COUNCIL MEMBERS AND EMPLOYEES**

OBJECTIVE

This policy is designed to protect the interests of Council Members and Employees (including past members and former employees) where they become involved in legal proceedings because of their official functions. In these situations the City may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings.

This policy is necessary to ensure security, equity and consistency for Members and Employees to work for the good government of the district. This policy applies in that respect.

POLICY STATEMENT

EXPLANATION OF KEY TERMS

approved lawyer is to be –

- (a) a ‘certified practitioner’ under the *Legal Practice Act 2003*;
- (b) from a law firm on the City's panel of legal service providers, if relevant, unless the Council or CEO considers that this is not appropriate – for example where there is or may be a conflict of interest or insufficient expertise; and
- (c) approved in writing by the Council or the CEO under delegated authority.

council member or employee means a current or former commissioner, Council Member, Non-elected Member of a Council Committee or Employee of the City.

legal proceedings may be civil, criminal or investigative.

legal representation is the provision of legal services, to or on behalf of a Council Member or Employee, by an approved lawyer that are in respect of –

- (a) a matter or matters arising from the performance of the functions of the Council Member or Employee; and
- (b) legal proceedings involving the council member or employee that have been, or may be, commenced.

legal representation costs are the costs, including fees and disbursements, properly incurred in providing legal representation.

legal services includes advice, representation or documentation that is provided by an approved lawyer.

payment by the City of legal representation costs may be either by –

- (a) a direct payment to the approved lawyer (or the relevant firm); or
- (b) a reimbursement to the Council Member or Employee.

1. Payment Criteria

There are four major criteria for determining whether the City will pay the legal representation costs of a council member or employee. These are –

- (a) the legal representation costs must relate to a matter that arises from the performance, by the Council Member or Employee, of his or her functions;
- (b) the legal representation cost must be in respect of legal proceedings that have been, or may be, commenced;
- (c) in performing his or her functions, to which the legal representation relates, the council member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- (d) the legal representation costs do not relate to a matter that is of a personal or private nature.

2. Examples of legal representation costs that may be approved

2.1 If the criteria in clause 1 of this policy are satisfied, the City may approve the payment of legal representation costs –

- (a) where proceedings are brought against a council member or employee in connection with his or her functions – for example, an action for defamation or negligence arising out of a decision made or action taken by the Council Member or Employee; or
- (b) to enable proceedings to be commenced and/or maintained by a Council Member or Employee to permit him or her to carry out his or her functions - for example where a Council Member or Employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the Council Member or Employee; or
- (c) where exceptional circumstances are involved – for example, where a person or organisation is lessening the confidence of the community in the local government by publicly making adverse personal comments about Council Members or Employees.

2.2 The City will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a Council Member or Employee.

3. Application for payment

- 3.1 A Council Member or Employee who seeks assistance under this policy is to make an application(s), in writing, to the Council or the CEO.
- 3.2 The written application for payment of legal representation costs is to give details of –
- (i) the matter for which legal representation is sought;
 - (ii) how that matter relates to the functions of the council member or employee making the application;
 - (iii) the lawyer (or law firm - if known) who is to be asked to provide the legal representation;
 - (iv) the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc);
 - (v) an estimated cost of the legal representation; and
 - (vi) why it is in the interests of the City for payment to be made.
- 3.3 The application is to contain a declaration by the applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates.
- 3.4 As far as possible the application is to be made before commencement of the legal representation to which the application relates.
- 3.5 The application is to be accompanied by a signed Statutory Declaration by the applicant that he or she –
- (a) has read, and understands, the terms of this Policy;
 - (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions of clause 7 and any other conditions to which the approval is subject; and
 - (c) undertakes to repay to the City any legal representation costs in accordance with the provisions of clause 7.
- 3.6 In relation to clause 3.5(c), when a person is to be in receipt of such monies the person should sign a Statutory Declaration which requires repayment of that money to the local government as may be required by the local government and the terms of the Policy.
- 3.7 An application is also to be accompanied by a report prepared by the CEO or where the CEO is the applicant by an appropriate Senior Employee. The report will contain an assessment of the request, together with a recommendation.

4. Legal representation costs – Limit

- 4.1 The Council, in approving an application in accordance with this policy, shall set a limit on the costs to be paid based on the estimated costs in the application.
- 4.2 A Council Member or Employee may make a further application to the council in respect of the same matter.

5. Council's powers

- 5.1 The Council may –
- (a) refuse;
 - (b) grant; or
 - (c) grant subject to conditions, an application for payment of legal representation costs.
- 5.2 Conditions under clause 5.1 will include, but are not restricted to:
- (a) a financial limit; and
 - (b) a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs.
- 5.3 In assessing an application, the council may have regard to any insurance benefits that may be available to the applicant under the City's Council Members or Employees insurance policy or its equivalent.
- 5.4 The Council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.
- 5.5 The Council may, subject to clause 5.6, determine that a Council Member or Employee whose application for legal representation costs has been approved has, in respect of the matter for which legal representation costs were approved –
- (a) not acted reasonably or in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
 - (b) given false or misleading information in respect of the application.
- 5.6 A determination under clause 5.5 may be made by the Council only on the basis of, and consistent with, the findings of a court, tribunal or inquiry.

- 5.7 Where the Council makes a determination under clause 5.5;
- (a) assistance will be immediately withdrawn; and
 - (b) the legal representation costs paid by the City are to be repaid by the Council Member or Employee in accordance with clause 7.

6. Delegation to Chief Executive Officer

- 6.1 In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the Council, any of the powers of the council under clause 5.1 and 5.2, to a maximum of **\$11,945** (Indexed by CPI on 1 July of each year – includes 2011 increase) in respect of each application.
- 6.2 An application approved by the CEO under clause 6.1, is to be submitted to the next Ordinary Meeting of the Council. Council may exercise any of its powers under this Policy, including its powers under clause 5.4.

7. Repayment of legal representation costs

- 7.1 A Council Member or Employee whose legal representation costs have been paid by the City is to repay the City –
- (a) all or part of those costs – in accordance with a determination by the Council under clause 5.7;
 - (b) as much of those costs as are available to be paid by way of set-off – where the Council Member or Employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City paid the legal representation costs.
- 7.2 The City may take action in a court of competent jurisdiction to recover any monies due to it under this Policy.

Date Adopted:	23 July 2002; readopted 7 November 2006
Date Amended:	-
Date Reviewed:	28 February 2012
Date of Next Review:	February 2017

**LEGAL REPRESENTATION FOR COUNCIL MEMBERS
AND EMPLOYEES
POLICY NO: 4.2.1**

CPI INCREASES FROM JULY 2009
(Perth Based CPI)

Year	CPI	Page 5, Clause 6.1	Rounding
July 2008		\$10,000	
July 2009	1.4%	\$10,140.00	\$10,140
July 2010	3.5%	\$10,494.90	\$10,495
July 2011	3.0%	\$10,809.75	\$10,810
July 2012	1.0%	\$10,917.84	\$10,918
July 2013	2.5%	\$11,190.79	\$11,191
July 2014	3.3%	\$11,560.09	\$11,560
July 2015	1.8%	\$11,768.17	\$11,768
July 2016	0.9%	\$11,874.08	\$11,874
July 2017	0.6%	\$11,945.33	\$11,945

POLICY NO. 4.2.10

**COUNCIL MEMBERS AND EMPLOYEES
BUSINESS DEALINGS WITH THE CITY**

OBJECTIVE

To provide an open, transparent and accountable procedure for entering into any contracts with business entities that has a relationship with any serving Council Member or Employee.

POLICY STATEMENT

1. All commercial/ business dealings (including the awarding of contracts) with the City of Vincent by Council Members and Employees (and their closely associated persons) shall at all times be open, transparent and accountable.
2. All Council Members and Employees (and their closely associated persons) wishing to carry out any business activities with the City shall only do so in strict accordance with this Policy.
3. Where a Council Member or an Employee owns or is closely associated to a business from which the City purchases, or intends to purchase, goods and services, the Council/City will strictly follow this policy.
4. Any Council Member or Employee who wishes to do business with the City of Vincent must register their interest in writing to the Chief Executive Officer, by the 1st July of each year, or in the case of a newly elected Council Member or new Employee, or one who decides to do business with the City because of their purchase of a new business entity, register as the matter arises or must register as soon as is practicable after being elected to the Council, or in the case of an Employee, after their appointment has been confirmed.
5. A "Council Member/Employee Business Dealings/Contracts Register" ("the Register") will be maintained by the Chief Executive Officer and will be available for public inspection.
6. The Register will contain the following details;
 - (i) Name of business entity/company/Trading Name;
 - (ii) Name and addresses of persons associated with the business entity;
 - (iii) the position and extent of authority of persons in the business;
 - (iv) the type/range of goods and services the business entity provides; and
 - (v) any other relevant business.
7. The Council Member and Employee shall at all times only deal with the Chief Executive Officer (or where delegated, with the relevant Executive Manager). Employees directly involved with the contract shall not be contacted or approached.
8. Where the City decides to conduct business with such an entity, it will disclose the extent of the funds paid to it by way of a separate note in the Annual Report - financial accounts.
9. Where tenders, expressions of interest (EOI) or quotations are publicly advertised, any business entities that have a closely associated person with any serving Council Member or Employee of the Council, are required to state the nature of the association and to advise/declare in writing to the Chief Executive Officer that they wish to perform business with the City. This requirement will be included in the tender/quotation documentation.

10. Quotations, and/or expressions of interest that are not publicly advertised, shall also include the declaration requirement in the same manner as tenders and expressions of interest.
11. That all tenders/quotations under this policy shall have a written scope of works or services being sought and an Evaluation Criteria. Employees assessing the awarding of such contracts shall prepare a report assessing all tenders/quotations against the Evaluation Criteria. In these cases, an Evaluation Panel comprising of the Employee directly responsible for the tender/quotation and at least one other employee not directly associated with the matter. The Evaluation Panel report is to be independently reviewed by the relevant Director and/or Director Corporate Services. Prior to any contract being awarded, it is to be approved by the Chief Executive Officer, who will advise the Mayor and/or Council in writing of the matter. If the Mayor is involved in the contract, the Deputy Mayor shall be advised.
12. The Chief Executive Officer (or their closely associated persons) shall not conduct any business/ commercial dealings with the City of Vincent.
13. The Chief Executive Officer shall accurately maintain the Register of any Council Member or Employee (or their closely associated persons) submission details of tenders/quotations being considered under this policy and this shall also be reported to the Council on a quarterly basis (if a contract has been considered).
14. When reporting to Council on a tender, expression of interest or quotation in which there is Council Member interest, this should be done under separate and confidential cover with the item not being distributed to the Council Member who has the interest. This information shall not be made available to the Council Member tendering, lodging an expression of interest or quoting.
15. All enquires and any complaints pertaining to the tender, expression of interest or quotation must be in writing and addressed to the Chief Executive Officer, who has the discretion to resolve any issue or refer the matter to the Council.
16. "Closely associated person" shall have the same meaning as defined in Section 5.62 of the Local Government Act 1995 and in summary, includes as follows:
 - (a) the person is in business partnership or Body Corporate with the relevant person;
 - (b) the person is the spouse (or de facto spouse) or child of the relevant person and is living with the relevant person.

(Note: This policy will also be included by reference in the Council's Code of Conduct.)

Date Adopted:	28 June 2005
Date Amended:	-
Date Reviewed:	1 February 2010
Date of Next Review:	February 2015