



66. **LIABILITY MANAGEMENT POLICY**

1.0 Introduction

Council owes a duty of care not only to its employees and volunteers but its community and members of the broader public. When there is a possibility that Council may have breached this duty of care, they may be considered liable and subject to legal proceedings. As the environment becomes one of increasing litigation, Council is forced to protect its interests and the interests of its employees.

Council manage potential liability issues by:

1. Proactively identifying and managing risk issues in accordance with the Risk Management Policy and Integrated Risk Management Framework which is aligned with AS/NZS ISO 31000:2009 *Risk Management – Principles and guidelines*;
2. Transferring the risk, and insuring Council against Public Liability and Professional Indemnity;
3. Educating and providing information to:
 - a) staff to reduce the potential for liability arising from advice given to members of the public, and
 - b) members of the public.
4. Continually liaising with insurers and associated agencies to discuss trends, strategies and claims which have arisen;
5. Reporting of incidents and complaints through Council's Customer Request procedures, analysing data and taking necessary corrective action.

2.0 Identifying and Managing Risk

Through an enterprise wide focus, risk management is integrated into daily activities. This involves all staff becoming actively involved in the identification, assessment and management of risk. The following activities, in accordance with the Risk Management Policy and Integrated Risk Management Framework contribute to the development of Council's risk aware culture:



- Conducting risk assessments on public facilities, identifying hazards and implementing control measures;
- Improving public safety by implementing treatments in accordance with risk classification and Council budgets;
- Conducting site specific risk assessments and implementing appropriate control measures to uphold public safety, prior to and following any Council works;

3.0 Insuring against Liability

Insurance coverage is employed by Council as part of its risk management. In accordance with terms and conditions, the following insurance coverage is maintained:

- Business Practices Protection
- Pollution Legal Liability
- Councillors' and Officers' Liability
- Motor Vehicle
- Marine Hull Commercial
- Personal Accident
- Property
- Casual Hirers Liability
- Public Liability
- Professional Indemnity
- Fidelity Guarantee

In addition, Berrigan Shire Council has in place policies and procedures to enforce legislative requirements and ensure compliance.

4.0 Training and Information

a) Council Staff

In attempts to protect Council's interests and the interests of its employees, it is necessary to take actions to reduce Council's liability resulting from advice whilst still providing as much relevant information as possible to customers.

It is imperative that staff understand the potential repercussions from providing incorrect or conflicting advice, or from not maintaining appropriate records. As a minimum the following actions are to be taken to reduce the potential for liability:

- All employees will maintain a record of all conversations (including dates, names, addresses and information given) in a bound book.



- All conversations where a customer could be reasonably expected to rely on information are to be recorded on the Customer Request Form;
- The employee must ensure the customer's name and contact details are recorded to enable follow up contact to be made if necessary;
- Property specific advice should only be given within the breadth of knowledge of the employee and following review of the appropriate file or files;
- When unsure consult a Senior Officer or defer giving the advice until the information can be checked;
- If possible, provide a copy of the notes of the conversation giving your understanding of the advice given;
- Ensure records are filed in accordance with Records Management procedures;

b) Public

Information will be provided to members of the public in accordance with the requirements of the *Local Government Act 1993* and the *Government Information (Public Access) Act 2009*.

In order to reduce the incidence of liability and to protect the community, Council will wherever possible educate and/or provide information to ensure the public are informed. This may include, but is not limited to:

- Council staff advice
- Website information
- Published information
- Signage
- Information sessions or public meetings

5.0 Agency Liaison

Regular meetings will be held with Council's insurers, JLT to discuss trends relating to court rulings, strategies to minimise liability exposure based on best practice, and information on current claims and claim progression.

Communication links between Council staff and JLT are maintained between JLT Account Managers and Statewide Risk Managers, in order to access information and advice regarding risk and claims management.



6.0 Responding to Incidents/Claims

Incidents and complaints will be included in Council's Customer Request System in accordance with Customer Handling procedures. When responding to incidents or claims, the following procedure will be followed:

1. Following receipt of an incident, claim notification or potential claim notification, the information will be entered into Council's Customer Request System, in addition to the completion of an *Incident Notification* form.

(refer <G:\Insurance\Forms\INCIDENT NOTIFICATION>).

2. All *Incident Notification* forms are then to be directed to Council's internal Insurance Officer, within 7 days.

3. A person(s) wishing to lodge an insurance claim against Council shall submit the claim, setting out all necessary details to Council in writing.

4. Upon the claim being received at the Council offices, Council's Insurance Officer will ensure the following procedures shall apply:

- An individual file for the claim is opened.
- An email advising of the incident/claim is forwarded to Council's Insurance provider within two days of receipt of the claim.
- A standard letter acknowledging receipt of the claim is forwarded to the claimant.
- Within 7 days of receipt of the claim, an inspection of the area where the alleged incident occurred is conducted and information including photographs is compiled.
- If repairs or other actions are necessary in respect of the alleged problem raised in the claim, these are to be addressed immediately.
- A report will be compiled and will be approved by the General Manager or Director.
- A copy of the report will be forwarded to Council's Insurance provider.

5. Once the Insurance Company has advised their determination of the claim, person(s) making the claim are to be advised accordingly.

6. Where Council officers become aware of a potential public liability or professional indemnity claim:

- The General Manager will be advised immediately.
- A report will be prepared with the appropriate information and forwarded to Council's Insurance provider.

(Adopted by Council 15/12/2010)