

Purpose:

- 1 To outline the provision of legal services at The City of Red Deer.
- 2 Indicate when Legal Services is to be engaged and when external legal counsel is to be retained.
- 3 Mitigate legal risk and protect the best interest of The City through appropriate use of Legal Services.

Policy Statement(s):

- 4 Subject to Section 5, departments must request support from Legal Services when:
 - (1) Drafting contracts on behalf of the City that require Legal Services' review as per the Contracts Policy and Procedure;
 - (2) Receiving court related documents respecting the City, Council, employees, or volunteers;
 - (3) Receiving communications from a lawyer (outside of Legal Services) regarding the City;
 - (4) Preparing or amending a bylaw; or
 - (5) Legal Action or similar proceedings are threatened or anticipated against the City, Council, employees, or volunteers arising out of their actions on behalf of the City.
- 5 It is not mandatory to obtain support from Legal Services in the following situations:
 - (1) Contracts that are exempted under the Contracts Policy and Procedure;
 - (2) Change orders;
 - (3) Proposed Neighbourhood Area Structure Plans and Major Area Structure Plans; and
 - (4) The following bylaws:
 - (a) Bylaw amendments under Section 63 of the Municipal Government Act;
 - (b) Rate change bylaws;
 - (c) Annual tax rate bylaw; or
 - (d) Simple land use re-designations (bylaws changing one land use designation to another).
- 6 Departments are to independently assess risk using the Contracts Risk Assessment Grid (Appendix A). Support from Legal Services must be requested when the risk for the project or scenario is high, according to the Grid.
- 7 Departments will consult with City-employed subject matter experts (e.g. procurement, access and privacy, occupational health & safety, etc.) prior to seeking support from Legal Services.
- 8 Legal Services determines priorities of their workload based on:
 - (1) The risk to the City as a whole;
 - (2) Any legislated or court-imposed deadlines;
 - (3) The risk to any particular department or service of the City; and
 - (4) The availability of staffing and resources.

- 9 The City Solicitor is responsible for determining whether to retain external legal counsel, which will be based on:
- (1) The capacity within Legal Services;
 - (2) Timelines and level of urgency;
 - (3) The level and impact of risk based on the Risk Assessment Grid;
 - (4) Experience and expertise requirements; and
 - (5) Unique considerations associated with the work.

Decision to Commence or Settle Legal Claims:

- 10 A decision to commence litigation on behalf of the City will be made by the requesting department manager or General Manager in consultation with the City Solicitor. To better inform this decision, Legal Services may be asked to provide an assessment of:
- (1) The likelihood that the City's claim will succeed.
 - (2) Estimate of the financial risk, in consultation with Financial Services.

Decision to Settle or Resolve Legal Claims:

- 11 Departments must refer to the Settlement Approval Chart below to determine who is authorized to approve the settlement amount of uninsured actions, claims, or demands against and by the City in order to resolve a legal claim.

Risk Type	Settlement Authority
Low or Medium Risk and settlement amount less than \$75,000	Department Manager in consultation with General Manager
Low or Medium Risk and settlement amount between \$75,000 and \$1,000,000	General Manager, City Solicitor, and City Manager
High Risk and settlement amount less than \$1,000,000	General Manager, City Solicitor, and City Manager
Settlement amount over \$1,000,000, regardless of risk	City Solicitor, City Manager, and Council

- 12 The City Manager and City Solicitor should be consulted prior to approving settlement of Legal Actions and disputes impacting the City valued at more than \$75,000. All settlement agreements and releases made on behalf of the City must be reviewed by the City Solicitor or by use of standard wording approved by Legal Services.

Indemnification of City Employees, Agents, and Members of Council:

- 13 Should a third party commence a civil action against a present or former member of Council, City employee, or agent, and it is determined that the conduct giving rise to the civil action was conducted in good faith in the course and scope of his or her duties, the City shall indemnify and defend the member of Council, City employee, or agent.

Definitions:

- 14 Contract means a legally enforceable agreement between two or more parties, whether or not it is titled “Contract”.
- 15 Legal Action includes lawsuits, complaints to the Human Rights Commission or the Ombudsman’s office, or similar claims, actions or investigations under a regulatory or legislative process.
- 16 Legal Risk is any risk that is likely to or could reasonably result in legal consequences. A legal risk may arise from actions or decisions (or proposed actions or decisions) that have legal implications and that require a response or action of a legal, communication-related, organizational or political nature.
- 17 Legal Risk Management is the process of making and carrying out decisions that reduce the frequency and severity of potential risk that may impact the City’s ability to successfully meet its objectives.
- 18 Legal Services is the City’s internal legal department responsible for providing professional legal advice.

References/Links:

- 1 5029-CA Integrated Risk Management
- 2 5326-CA Contracts
- 3 5326-CP Contracts – Preparation, Signing, Management, and Retention
- 4 5303-CP Corporate Procurement

Scope/Application:

- 1 This procedure applies to all employees and departments.

Authority/Responsibility to Implement:

- 1 General managers and department managers are responsible for managing risks, including legal risks, associated with their program and policy decisions.
- 2 The General Manager of Corporate Services has the authority to approve exceptions and ensure compliance with this procedure.

Inquiries/Contact Person:

- 1 City Solicitor
- 2 General Manager of Corporate Services
- 3 Legal Services Coordinator

Procedure Monitoring and Evaluation:

- 1 This procedure will be reviewed every three years with revisions made on an as needed basis.

Document History:

Date:	Approved/Reviewed By:	Title:
Approved: July 30, 2013	"Lisa Perkins"	Acting City Manager
Revised: October 31, 2019	"Allan Seabrooke"	City Manager
Revised: July 13, 2020	"Allan Seabrooke"	City Manager

Appendix A:

The City of Red Deer: Risk Assessment Grid (Legal Services)

Likelihood	High (3)	Greater than 80%	Medium (3)	High (6)	High (9)
	Medium (2)	Between 20% and 80%	Low (2)	Medium (4)	High (6)
	Low (1)	Less than 20% and has not occurred in the past five years	Low (1)	Low (2)	Medium (3)
			Low (1)	Medium (2)	High (3)
			<p>Services delivered/action achieved with:</p> <ul style="list-style-type: none"> Little/no impact on overall objectives, financial risks are fully managed, low exposure to liability, injuries or incidents are minor, few/no complaints from public. 	<p>Action still achieved or partially achieved, however:</p> <ul style="list-style-type: none"> City unable to deliver non-core services; Some consequence for your group, BU or Department (E.g.: inconsistent monitoring of legal compliance requirements, moderate media coverage, some financial risk, reversible environmental damage, etc.) 	<ul style="list-style-type: none"> Contract, project or scenario results in City failure/unable to deliver core services or meet objectives Significant negative effect on the City (E.g.: serious injury, regulatory non-compliance with penalties, actions conflict with Council's strategic direction, significant cost overruns, etc.)
Impact (if Risk Arises)					
*with current controls and risk treatments in place					