

MINEHEAD TOWN COUNCIL LEGAL CONSULTATION POLICY



Approved: TBC

POLICY UPDATE TIMELINE

Policy Number	Version	Owner	Date Published	Review Date	Review Team
TBC	V1	MTC	TBC	TBC	Council

Distribution:

Internal: All MTC Staff

External: Councillors/Partners

Approved: TBC

1. Purpose

This Policy ensures that the Town Council obtains independent legal advice where necessary to support lawful, well-informed and transparent decision-making, particularly in relation to significant financial, employment, or governance matters.

2. Legal Framework

This Policy operates under the Council's powers and duties in the *Local Government Act 1972*, *Localism Act 2011* and associated legislation. It complements the Council's Standing Orders, Financial Regulations and any approved scheme of delegation or Exceptions Policy.

3. Scope

Applies to:

- The full Council, Committees, Sub-Committees, and Working Groups;
- The Town Clerk (Proper Officer), Responsible Financial Officer (RFO), and all officers with delegated authority.

4. Principle of Proportionality

Legal advice must be sought **proportionately**, taking into account:

1. **Materiality** – whether the decision involves substantial financial commitment, legal risk, or reputational impact.
2. **Complexity** – whether the matter involves unclear or novel points of law.
3. **Precedent** – whether the decision may establish or affect future Council policy or governance.
4. **Exceptions** – whether the matter is covered by an *Exceptions Policy* or has been specifically authorised as a “routine operational matter” not requiring legal advice.

The Town Clerk (or relevant Committee) shall exercise judgement in determining whether a matter meets the above criteria, documenting the rationale for seeking or not seeking legal advice.

5. Circumstances Requiring Independent Legal Advice

Independent legal advice must be obtained before the Council makes a final decision to settle, defend, or initiate legal proceedings, or otherwise act, where:

(a) Financial or Reputational Exposure

- The potential liability, claim value, or settlement exceeds £25,000 (or such other limit set by Council);
- The issue could significantly affect the Council's reputation, statutory functions, or relations with partner authorities.

(b) Employment and Staffing

- Any disciplinary, dismissal, or settlement decision involving the Town Clerk, RFO, or senior officers;
- Any employment dispute involving discrimination, whistleblowing, harassment, or potential Employment Tribunal proceedings;
- Any settlement agreement exceeding £10,000 or containing confidentiality clauses.

(c) Governance and Conduct

- Allegations of breach of the Members' Code of Conduct or conflict of interest;
- Amendments to Standing Orders, Schemes of Delegation, or governance frameworks with legal implications.

6. Delegations and Process

- The Town Clerk may seek legal advice directly for operational matters within delegated powers.
- Where the proportionality criteria (section 4) or thresholds (section 5) are met, advice must be obtained before any binding decision or commitment.
- In urgent cases, the Mayor and Town Clerk may jointly instruct legal advice provided that a quorum of councillors have been emailed, given a positive indication of their support, and the matter is reported to the next Council meeting.
- All advice must be recorded, marked confidential, and retained in accordance with the Council's information governance policies.

7. Link to Exceptions Policy

This Policy must be read in conjunction with the Council's Exceptions Policy – Non-Standard Payments. That document defines:

- Routine or low-risk decisions where legal advice is not normally required;
- Thresholds for officer discretion; and
- Procedures for recording and authorising exceptions.

Where a non-standard payment involves legal uncertainty, reputational risk, or potential legal dispute, the Town Clerk must consider whether the proportionality criteria (Section 4) or mandatory legal advice thresholds (Section 5) apply.

In such cases, the Town Clerk must ensure that legal advice is obtained in accordance with this Policy and that the advice is recorded and cross-referenced in the Exceptions Register maintained under the Exceptions Policy.

Any deviation from this Policy must be justified and documented in accordance with the Exceptions Policy.

8. Costs and Budget

Legal advice shall be funded from the Council's approved legal or contingency budgets. Anticipated exceptional costs must be authorised by the Council or appropriate Committee.

9. Review

This Policy shall be reviewed every three years, or sooner if required by legislative or governance changes.